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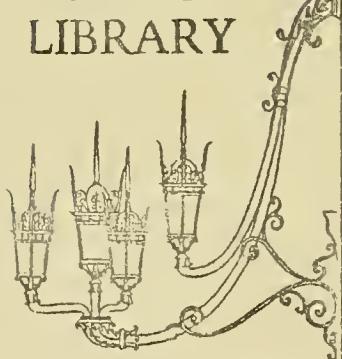
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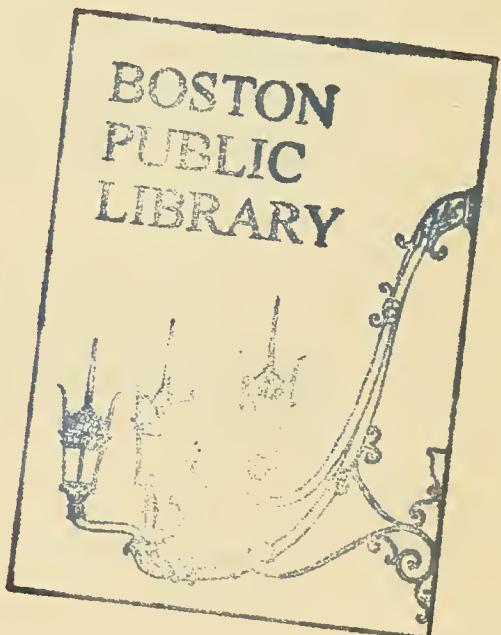
Vol. 2

PROPOSED HIGHWAY CODE

CHAPTER 81-K

LAW OF THE ROAD

MA ATTORNEY General





CHAPTER 81-K

LAW OF THE ROAD

ARTICLE 1. DEFINITIONS, APPLICATION OF CHAPTER AND GENERAL REGULATORY POWERS

Part 1. Definitions

Section 1-101. The following terms used in this chapter shall have the following meanings for the purposes of this chapter except where a different meaning is clearly apparent from the language or context, or where such construction is inconsistent with the manifest intention of the legislature:

"Emergency vehicle", a vehicle of a fire, police or recognized protective department, an ambulance equipped and used exclusively for the transportation of persons, or any other vehicle designated as an emergency vehicle by a rule, regulation, order, ordinance or by-law made under section 1-301 and approved by the registrar.

"Intersection," the area embraced within the extensions of the lateral curb lines of the traveled parts of any two highways which join each other at an angle, whether or not such highways cross; or, in the case of a highway having no such curb lines, the area embraced within the extensions of the limits of its traveled part; or, in the case of a highway having two traveled parts divided by thirty or more feet, the area embraced within the extensions of such lateral curb lines or limits of each such traveled part.

"Lane", a longitudinal division of the traveled part of a highway, of sufficient width to permit the passage of a single line of motor vehicles, whether or not such lane is indicated by pavement markings or longitudinal construction joints.

"Pedestrian", a person afoot.

Part 2. Application of Chapter

Section 1-201. This chapter, except as otherwise provided therein, shall apply to the following types of ways:

- (1) The provisions of articles one to five, inclusive, and any rules, regulations, orders, ordinances and by-laws made thereunder, shall apply within the limits of any public way, service way or private way dedicated to public use, but in no other way or place.
- (2) The provisions of articles six and seven shall apply within the limits of any public way, service way or private way dedicated or open to public use, but in no other way or place.

Section 1-202. Notwithstanding any provision of this chapter, the operator of a bicycle who violates any provision thereof or any rule, regulation, order, ordinance or by-law made thereunder shall be punished by a fine of not less than one dollar nor more than ten dollars. Any such violation by a minor under the age of eighteen shall not be considered a criminal offense nor shall it affect any civil right or liability; provided, that the police department of the municipality having jurisdiction, or, in a town which has no organized police department, the selectmen may impound such bicycle for a period not exceeding fifteen days with the consent of the parent or guardian of such minor.

Part 3. General Regulatory Powers and Limitations Thereon

Section 1-301. Rules, regulations, orders, ordinances and by-laws made by state agencies and by political subdivisions of the commonwealth and boards and officers thereof under section 1-101 of chapter eighty-one-I relative to the use of ways, except as otherwise provided by law, may include (1) restrictions on the movement of traffic, other than pedestrians, on such ways, (2) restrictions on the standing and parking of vehicles thereon, (3) exclusion of any or all vehicles or other traffic therefrom, and (4) restrictions relative to persons and property transported thereon.

In any municipality having a traffic commission, traffic and parking commission or traffic director authorized to make rules and regulations, the power to make rules and regulations under this section shall be vested exclusively in such commission or director to the extent of such authorization.

Section 1-302. During the effective period of a state of emergency declared under chapter six hundred and thirty-nine of the acts of nineteen hundred and fifty, as amended, the governor may make rules and regulations relative to (1) the movement of vehicles and other traffic on public ways, service ways and private ways, whether or not the same be dedicated or open to public use, (2) the standing and parking of vehicles on such ways, (3) the exclusion of any or all vehicles or other traffic therefrom, and (4) persons and property transported thereon, all in accordance with section seven of said chapter, as amended.

Section 1-303. The traffic and parking commission of the city of Boston, the aldermen of any other city, with the approval of the mayor, and the selectmen of any town may make rules and regulations relative to the use of motor vehicles on any private way, whether or not the same be dedicated or open to public use, or in any private parking area, upon written application by the owner of such way or parking area or by the person controlling the same with the written consent of such owner, to such commission, aldermen or selectmen. Such rules and regulations may restrict the movement, standing and parking of such vehicles on such ways and parking areas, or exclude any or all such vehicles therefrom, or restrict the transportation of persons and property by such vehicles thereon.

Any rule or regulation made under this section shall be effective for a period of time not to exceed one year from the date of its making, but may, upon like application, be extended for additional periods of time not to exceed one year for each extension.

Section 1-304. Any rule, regulation, order, ordinance or by-law made under this chapter relative to the use of motor vehicles on a particular way or portion thereof, except as otherwise provided by law, shall be effective only after and so long as lawful signs, signals, markings or other devices are placed and maintained on or along such way or portion thereof in such a manner as to inform the public of such rule, regulation, order, ordinance or by-law; provided, that this section shall not apply to rules and regulations made by the governor under section 1-302.

Section 1-305. Any rule, regulation, order, ordinance or by-law made under this chapter by a political subdivision of the commonwealth, except as otherwise provided by law, shall be effective only if the following additional requirements are met:

- (1) That any such rule, regulation or order has been published in one or more newspapers having general circulation in the municipality affected thereby;
- (2) That any such rule, regulation, order, ordinance or by-law relative to the use of motor vehicles on a particular way or portion thereof has been certified in writing by the department of public works to be consistent with the public interest, and that lawful signs setting forth the restrictions established thereby are placed and maintained upon the ways affected thereby at such points as said department and the registrar, acting jointly, may designate;
- (3) That any such rule, regulation, order, ordinance or by-law relative to signs, signals, markings or other devices on or along any way for any purpose has been approved in writing by the department of public works and otherwise complies with the requirements of section 5-101 of chapter eighty-one-E.

Section 1-306. Any rule, regulation, order, ordinance or by-law made under this chapter may prescribe penalties of not more than fifty dollars for the violation thereof, except as otherwise provided by law.

Section 1-307. Upon a third or subsequent conviction in the same year of a violation of any regulation made under this chapter by the department of public works or by a municipality relative to the use of motor vehicles on a particular way or portion thereof, other than a parking violation, the registrar shall forthwith revoke the license of the person so convicted to operate motor vehicles, and no new license shall be issued to such person for at least thirty days after the date of such conviction, nor thereafter except in the discretion of the registrar.

ARTICLE 2. MOVEMENT OF VEHICLES AND OTHER TRAFFIC

Part 1. Special Regulatory Powers
and Limitations Thereon

Section 2-101. The registrar may make rules and regulations relative to the movement of motor vehicles and trailers; provided, that no such rule or regulation shall be made relative to the speed of vehicles other than school buses. A copy of such rules and regulations attested by the registrar shall be prima facie evidence that they have been made as provided by law.

Section 2-102. The department of public works may make rules and regulations relative to the movement of commercial motor vehicles on any public way, service way or private way dedicated to public use, except for ways under the control of the metropolitan district commission. If any person is convicted of a second or subsequent violation of any rule or regulation made hereunder, the registration of the vehicle or vehicles involved shall be suspended for such length of time as the registrar may determine.

Section 2-103. The department of public works may make rules and regulations relative to the movement of pedestrians on ways under its control and at intersections of state highways with other ways.

The metropolitan district commission may make rules and regulations relative to the movement of pedestrians on ways under its control and at intersections of metropolitan ways with ways other than state highways.

Section 2-104. In a municipality which accepts this section, the traffic commission, traffic and parking commission or traffic director thereof, if any, authorized to make rules and regulations, or, if none, the aldermen or selectmen thereof, may make rules and regulations relative to the movement of pedestrians on ways under the control of such municipality.

Any rule or regulation made hereunder shall be effective only after the same has been approved in writing by the department of public works. Notwithstanding the provisions of clause (1) of

section 1-305, any such rule or regulation made by the traffic and parking commission of the city of Boston shall be effective only after the same has been published in the City Record, and need not be published in any newspaper.

At any time after the expiration of two years from the time of acceptance of this section by any municipality, such municipality may revoke such acceptance in the same manner as said section was accepted.

Section 2-105. Whoever violates any provision of any rule or regulation made under this chapter relative to the movement of pedestrians on ways shall be punished by a fine of one dollar for the first, second or third such offense committed by such person within the jurisdiction of the district court in the particular calendar year, and by a fine of two dollars for the fourth or subsequent such offense so committed in such calendar year.

Any police officer who takes cognizance of any such violation shall forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction, at any time during office hours, not later than twenty-one days after the time of such violation. Such notice shall be made in triplicate and shall contain the name and address of the offender, the time, place and nature of the violation, and the name of the police officer. Upon the completion of his tour of duty such police officer shall give his commanding officer two copies of such notice. Said commanding officer shall retain one such copy in his files and, not later than the next court day, deliver the other copy to the clerk of the court before whom the offender has been notified to appear. The notice to appear as provided herein shall be printed in such form as the chief justice of the municipal court of the city of Boston and the chief justice of the district courts may prescribe for such courts.

A police officer taking cognizance of any such violation may request the offender to state his name and address. Whoever, upon such request, refuses to state his name and address, or states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not less than twenty nor more than fifty dollars. Any such offender who refuses upon such request to state his name and address may be arrested without a warrant by such officer and kept in custody for not more than twenty-four hours, Sunday excepted, at or before the

expiration of which period of time he shall be taken before a proper court or magistrate and proceeded against according to law. No person shall be arrested without a warrant for any other violation of any provision of this paragraph or for any violation of any provision of any such rule or regulation.

Any person notified to appear before the clerk of a district court as hereinbefore provided may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing or by mailing to such clerk, with the notice, the sum provided herein, such payment to be made only by postal note, money order or check. If it is the first, second or third offense subject to this section committed by such person within the jurisdiction of the court in the calendar year, payment to such clerk of the sum of one dollar shall operate as a final disposition of the case; if it is the fourth or subsequent such offense so committed in such calendar year payment to such clerk of the sum of two dollars shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation record.

Should any person notified to appear before the clerk of the district court fail to appear or, having appeared, desire not to avail himself of the procedure hereinbefore provided for the non-criminal disposition of the case, the clerk shall, as soon as may be, notify the officer concerned, who shall forthwith make a complaint and follow the procedure established for criminal cases. If any person fails to appear in accordance with the summons issued upon such complaint, the clerk shall send such person by registered mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within twenty-one days from the sending of such notice a warrant for his arrest will be issued. If any person fails to appear within twenty-one days from the sending of such notice the court shall issue a warrant for his arrest.

A violation of any provision of any such rule or regulation or of any provision of this section shall not, in any civil proceeding, constitute negligence or be admissible as evidence of negligence, nor shall a conviction for such a violation be shown to affect the credibility of a witness in an proceeding.

Rules and regulations made under this chapter relative to the movement of pedestrians on ways shall also apply to any person in or on any vehicle, other than a bicycle, which is constructed and designed for propulsion by human muscular power, to the same extent as if he were a pedestrian; and any such person who violates any such rule or regulation shall be subject to the provisions of this section.

Part 2. Rights of Way and Required Stops

Section 2-201. The operator of a vehicle approaching an intersection shall grant the right of way to a vehicle which has already entered such intersection, and the operator of a vehicle entering an intersection shall grant the right of way to a vehicle entering from his right at approximately the same instant; provided, that this section shall not apply where such operator is otherwise directed by a police officer or by a lawful traffic regulating sign or device, and shall be subject to the provisions of section 2-202.

Section 2-202. The following types of traffic, except as hereinafter provided, shall have the right of way over all other traffic:

(1) Emergency vehicles when operated in an emergency or in the performance of a public duty; but only while making use of visible and audible emergency signals;

(2) Vehicles and personnel of the armed forces of the United States or the military forces of the commonwealth when parading or performing any duty according to law; provided, that the carriage of the United States mails and the right of way granted in subdivision (1) shall not be interfered with thereby;

(3) Vehicles and persons in a funeral procession or assembly; provided, that the carriage of the United States mails and the rights of way granted in subdivisions (1) and (2) shall not be interfered with thereby.

Any person who obstructs or interferes with the exercise or enjoyment of a right of way granted by this section may be arrested

without a warrant by any police officer and kept in custody not more than twenty-four hours, Sunday excepted, at or before the expiration of such period of time he shall be brought before a proper court or magistrate and proceeded against according to law.

Section 2-203. The operator of a vehicle approaching an intersection at which a lawful sign displaying the word "Stop" or a flashing red signal faces him shall bring his vehicle to a stop before entering such intersection, except as otherwise directed by a police officer or by a lawful traffic regulating sign or device, and except as provided in section 2-204. In the case of a stop sign, the stop shall be made at such point as may be clearly marked by a sign or line, or, if a point is not so marked, at a place between said stop sign and the nearer line of the intersection. In the case of a flashing red signal, the stop shall be made at the nearer line of the intersection.

After the operator has stopped in accordance with this section, he may proceed through the intersection in a reasonable manner, exercising due care under the circumstances.

Section 2-204. The operator of a vehicle, except as otherwise directed by a police officer, may proceed through an intersection without stopping as provided in section 2-203 in the following cases:

(1) In the case of a line of two or more vehicles approaching the intersection, the operators of the second and third vehicles in line shall not be required to stop more than once before proceeding through the intersection.

(2) In the case of an emergency vehicle being operated in an emergency or in the performance of a public duty, while making use of visible and audible emergency signals, the operator thereof may proceed through the intersection contrary to any traffic sign or device, but only after reducing the speed of such vehicle as may be necessary for safe operation and exercising due regard for the safety of persons and property.

(3) In the case of a military convoy consisting of five or more vehicles, the operator of any such vehicle may proceed through the intersection contrary to any traffic sign or device if a police officer or duly authorized member of the military service is then stationed at the intersection to regulate traffic; provided, that the carriage of the United States mails and the operation of emergency vehicles is not interfered with thereby.

Section 2-205. The department of public works may from time to time designate any state or other highway or part thereof as a through way, and may revoke any such designation after notice. Said department may make rules and regulations relative to the movement of vehicles on any highway so designated.

A municipal board or officer authorized to make rules and regulations under section 1-301 may, with the approval of said department and while such approval is in effect, designate any county way or municipal way or part thereof within the limits of the municipality as a through way. Such designation may be revoked by such board or officer after notice and like approval. Said department may revoke any approval granted hereunder after notice.

No such designation shall become effective as to the regulation of traffic at any intersection until lawful warning signs or signals have been placed at or near such intersection.

Section 2-206. The operator of a vehicle approaching a grade crossing at which a red signal is flashing or an automatic gate is lowered shall bring such vehicle to a stop within fifty feet but not less than fifteen feet from the nearest rail in such crossing.

The operator of a school bus, or a vehicle carrying any explosive substance or inflammable liquid as a cargo or part of a cargo, upon approaching a grade crossing, with or without a flashing red signal or automatic gate, shall bring such vehicle to a stop within fifty feet but not less than fifteen feet from the nearest rail in such crossing.

An operator required to stop under this section shall not proceed until it is safe to do so.

Section 2-207. The operator of a vehicle shall immediately drive such vehicle as far as possible toward the right curb or edge of the traveled part of the highway and bring it to a stop upon the approach of an emergency vehicle being operated in an emergency or in the performance of a public duty, while making use of visible and audible emergency signals. Said operator shall not proceed until such emergency vehicle has passed.

Section 2-208. The operator of a motor vehicle, upon approaching a bus which displays a sign bearing the words "School Bus" or "Camp Bus" and front and rear blinker lights which are flashing, or

such other warning signal as the registrar may prescribe, and which is stopped to allow passengers to alight from or board the same, shall bring such vehicle to a stop before reaching said bus. Such operator shall not proceed until said bus resumes motion or until signaled by the operator of said bus to proceed or until such blinker lights or other signals are no longer in operation.

This section shall not apply to the operator of a vehicle approaching such a bus from the opposite direction on a divided highway.

Section 2-209. The operator of a vehicle, upon approaching or passing a streetcar which is stopped to allow passengers to alight from or board the same, shall not drive such vehicle within eight feet of the running board of the lowest step of said streetcar then in use by passengers for the purpose of alighting or boarding, except by the direction of a police officer or except at points where passengers are protected by safety zones.

Section 2-210. The operator of a vehicle, upon approaching a totally or partially blind pedestrian, guided by a guide dog or carrying in a raised or extended position a cane or walking stick which is white in color or white tipped with red, who is crossing or attempting to cross the traveled part of the highway, shall bring such vehicle to a stop, and before proceeding shall take such precautions as may be necessary to avoid injuring such pedestrian. Nothing contained in this section shall be construed to deprive any totally or partially blind person, not carrying such a cane or walking stick or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing ways, nor shall the failure of such blind person to carry a cane or walking stick or to be guided by a dog constitute or be evidence of contributory negligence.

Section 2-211. The operator of a motor vehicle, upon approaching or passing a person leading, riding or driving a horse or other draft animal, shall bring such vehicle to a stop if the person in charge of such animal shall signal him to do so.

Section 2-212. The operator of a vehicle who knowingly collides with or otherwise causes injury to any person or property shall bring such vehicle to a stop within a reasonable distance of the place where such collision or injury occurred.

Section 2-213. The operator of a vehicle shall bring such vehicle to a stop upon request of a police officer or upon visible and audible signals by such officer. Whoever violates this section or causes a violation thereof may be arrested without a warrant by any police officer and kept in custody not more than twenty-four hours, Sunday excepted, at or before the expiration of which period of time he shall be brought before a proper court or magistrate and proceeded against according to law.

Section 2-214. The operator of a motor vehicle subject to the jurisdiction of the commercial motor vehicle division of the department of public utilities shall bring such vehicle to a stop upon request of an investigator or examiner of said division who is in uniform or displays his badge conspicuously on his person, or upon visible and audible signals by such investigator or examiner.

Part 3. Position on the Highway and Direction of Travel

Section 2-301. The operator of a vehicle shall drive in the lane nearest the right side of the traveled part of the highway when such lane is available for travel, except when overtaking another vehicle or when preparing for a left turn. When the right lane has been constructed or designated for purposes other than ordinary travel, such operator shall drive in the lane adjacent to the right lane except when overtaking another vehicle or when preparing for a left or right turn.

Section 2-302. The operator of a vehicle may overtake another vehicle by driving a safe distance to the left of such other vehicle.

Except when overtaking on the right is permitted, the operator of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely overtaken or otherwise obstruct the overtaking vehicle.

Section 2-303. The operator of a vehicle may overtake another vehicle on the right when such movement can be made in safety under the following conditions:

- (1) When the overtaken vehicle is making or about to make a left turn; or

(2) When vehicular traffic on the traveled part of the highway is limited to travel in one direction; provided, that such traveled part is free from obstruction and consists of two or more lanes available for moving vehicles.

In no event shall such movement be made by driving off the traveled part of the highway.

Section 2-304. When turning to the right, the operator of a vehicle shall do so in the lane nearest to the right side of the traveled part and as closely as possible to the right curb or edge thereof.

When approaching for a left turn, such operator shall do so in the lane to the right of and nearest to the center line of the traveled part, and shall make the left turn by passing to the right of such center line where it enters the intersection from his left; provided, that a left turn from a traveled part on which travel is limited to one direction shall be made from the lane nearest to the left side thereof and as closely as possible to the left curb or edge thereof; and provided further, that a left turn into a traveled part on which travel is limited to one direction shall be made into the nearest lane available for travel.

Section 2-305. Notwithstanding any provision of sections 2-302, 2-303 and 2-304, the operator of a vehicle shall drive to the right of the center line of the highway under the following conditions:

(1) Whenever he meets another vehicle;

(2) Whenever he does not have an unobstructed view of the highway for at least four hundred feet ahead, to the extent that it is safe and practicable;

(3) Whenever he approaches an intersection which is obstructed from his view.

This section shall not apply to the extent that the foregoing restrictions are modified by lawful pavement markings, nor shall subdivisions (1) and (2) apply where traffic on the traveled part is limited to one direction.

Section 2-306. The department of public works may modify the requirement of section 2-305 on any state highway, any public way

connecting with a state highway and any main highway between municipalities, by the use of pavement markings thereon, and may by permit, revocable upon notice, authorize municipalities to modify such requirements by pavement markings.

When a highway has been divided into lanes by pavement markings or longitudinal construction joints, the operator of a vehicle shall so drive that the vehicle shall be entirely within a single lane, and shall not move from the lane in which he is driving until he has first ascertained that such movement can be made with safety.

Section 2-307. The operator of a slow moving vehicle while ascending a grade shall drive in the extreme right lane to the extent practicable until the top of such grade has been reached.

Section 2-308. The operator of a vehicle shall drive such vehicle as far as possible toward the right curb or edge of the traveled part of the highway upon the approach of an emergency vehicle, as provided in section 2-207.

Section 2-309. Sections 2-301 to 2-308, inclusive, shall not apply to streetcars or other vehicles moving upon rails.

Section 2-310. The operator of a vehicle shall not follow another vehicle more closely than is reasonable and shall allow sufficient space between each vehicle to permit an overtaking vehicle to enter and occupy such space without danger, except when operating in congested traffic or preparing to overtake another vehicle.

Section 2-311. Operators of bicycles in groups of two or more shall ride in single file except on bicycle paths.

Part 4. Signalling

Section 2-401. The operator of a vehicle, before stopping such vehicle or making any turning movement which would affect the operation of any other vehicle, shall give a plainly visible signal either by means of the hand and arm in the manner hereinafter specified or by a suitable mechanical or electric device or devices. Hand and arm signals shall be made as follows:

- (1) An intention to turn to the left shall be indicated by hand and arm extended horizontally.

(2) An intention to turn to the right shall be indicated by hand and arm extended upward.

(3) An intention to stop or decrease speed shall be indicated by hand and arm extended downward.

Section 2-402. No device on a motor vehicle to permit all its directional signals to flash simultaneously shall be operated except when the vehicle is disabled or stopped in an emergency at the side of the highway.

Part 5. Speed

Section 2-501. The operator of a vehicle shall not drive at a speed greater than is reasonable under existing traffic, highway and weather conditions.

Upon a third or subsequent conviction in the same year of the operator of a motor vehicle for the violation of this section, the registrar shall forthwith revoke his license to operate motor vehicles. No new license shall be issued to such operator for at least thirty days after the date of such conviction, nor thereafter except in the discretion of the registrar.

Section 2-502. Operation of a vehicle at a speed in excess of the following, except as provided in section 2-503, shall be prima facie evidence of a speed greater than is reasonable:

(1) On a divided highway outside a thickly settled or business district at a speed exceeding fifty miles per hour for a distance of one quarter of a mile;

(2) On any other highway outside a thickly settled or business district at a speed exceeding forty miles per hour for a distance of one quarter of a mile;

(3) Inside a thickly settled or business district at a speed exceeding thirty miles per hour for a distance of one eighth of a mile;

(4) Inside a school zone established in accordance with the standards of the department of public works at a speed exceeding twenty miles per hour for any distance.

For purposes of this section, the term "thickly settled or business district" shall refer to the territory contiguous to either or both sides of a way, in which there are structures devoted to business, commercial or industrial uses, or in which there are dwelling houses situated at such distances as will average less than two hundred feet between them for a distance of not less than one quarter of a mile.

Section 2-503. Operation of a vehicle at a speed in excess of a speed limit established by any rule, regulation, order, ordinance or by-law made under this chapter shall be prima facie evidence of a speed greater than is reasonable.

Any rule, regulation, order, ordinance or by-law made under this chapter by municipal authority relative to the speed of motor vehicles on particular ways shall be effective only after the same has been certified in writing by the department of public works and the registrar, acting jointly, to be consistent with the public interest. Any sign erected pursuant to any such rule, regulation, order, ordinance or by-law without such certification or otherwise in violation of the provisions of this chapter may be removed by or under the direction of said department.

Section 2-504. The operator of a vehicle shall reduce the speed thereof as may be necessary for safe operation upon approaching an intersection where his view is obstructed or any grade crossing, and shall use reasonable caution in proceeding through such intersection or over such crossing.

Section 2-505. The operator of a vehicle shall reduce the speed thereof as may be necessary for safe operation upon approaching a pedestrian who is within the traveled part of the highway, and shall use reasonable caution in passing such pedestrian.

Section 2-506. The operator of a motor vehicle shall reduce the speed thereof and take such other action as may be necessary for safe operation upon approaching a person operating a bicycle or a person leading, riding or driving a horse or other draft animal, and shall use reasonable caution in passing such person or animal.

Section 2-507. Notwithstanding any provision of law, a vehicle equipped with metallic tires which with its load weighs more than four tons shall not be operated at a speed in excess of four miles per hour.

Section 2-508. Notwithstanding any provision of law, an emergency vehicle making use of visible and audible emergency signals may be operated in an emergency or in the performance of a public duty at a speed in excess of the applicable speed limit, if the operator thereof exercises caution and due regard under the circumstances for the safety of persons and property.

Part 6. Display of Lights

Section 2-601. The operator of a vehicle required by sections 2-201 to 2-207, inclusive, 2-209, 2-210, 2-212, 2-213 and 3-101 of chapter eighty-one-L to be equipped with any headlamp, taillamp or other lighting device shall display the same during the period from one half an hour after sunset to one half an hour before sunrise, and during any other period when persons and vehicles are not clearly discernible at a distance of five hundred feet ahead due to insufficient light or unfavorable atmospheric cooditions.

Section 2-602. The operator of a vehicle displaying headlamps in accordance with section 2-601 shall use the lowermost beam to which such headlamps can be adjusted upon approaching an oncoming vehicle within a distance of five hundred feet, and upon approaching another vehicle from the rear within a distance of three hundred feet.

Part 7. Negligence and Recklessness

Section 2-701. No vehicle shall be operated negligently.

Section 2-702. No vehicle shall be operated so negligently that the lives or safety of persons might be endangered thereby, or recklessly, or upon a bet or wager, or in a race.

Any conviction of an operator of a motor vehicle under this section shall be subject to the provisions of section 2-209 of chapter eighty-one-J relative to the revocation of his license or right to operate motor vehicles and of the registration of any motor vehicles owned by him or under his exclusive control; provided, that the registrar, after investigation, may at any time rescind the revocation of such license or right to operate because of a conviction of operating a motor vehicle so negligently that the lives or safety of persons might be endangered thereby.

Section 2-703. Any person who violates section 2-701 or 2-702 may be arrested without a warrant by any police officer and kept in custody not more than twenty-four hours, Sunday excepted, at or before the expiration of which period of time he shall be brought before a proper court or magistrate and proceeded against according to law.

Section 2-704. Sections 2-701, 2-702 and 2-703 shall apply to vehicles operated on any public way, service way or private way dedicated or open to public use.

Section 2-705. No operator of a bicycle shall permit such bicycle to be drawn by any other moving vehicle.

Part 8. Penalties for Violations

Section 2-801. Whoever violates any provision of sections 2-201, 2-203, 2-301, 2-302, 2-303, 2-304, 2-305, 2-306, 2-307, 2-310, 2-401, 2-402, 2-501, 2-504, 2-507, 2-601 and 2-602 shall be punished by a fine of not more than fifty dollars; provided, that the complaint is made within three months after such violation.

Whoever violates any provision of sections 2-206, 2-207, 2-208, 2-209, 2-210, 2-211, 2-213, 2-214, 2-505, 2-506 and 2-701 shall be punished by a fine of not more than one hundred dollars; provided, that a wilful violation of section 2-213 shall be punished by said fine or imprisonment for not more than six months, or both.

Whoever violates any provision of section 2-202 shall be punished as follows: for a violation of subdivision (1) thereof, by a fine of not more than two hundred and fifty dollars or imprisonment for not more than six months, or both; for a violation of subdivision (2) thereof, by a fine of not more than one hundred dollars or imprisonment for not more than six months, or both; for a violation of subdivision (3) thereof, by a fine of not more than fifty dollars or imprisonment for not more than thirty days.

Whoever violates any provision of section 2-702 shall be punished by a fine of not less than twenty nor more than two hundred dollars or imprisonment for not less than two weeks nor more than two years, or both.

ARTICLE 3. STANDING AND PARKING OF VEHICLES

Part 1. Prescribed Method of Standing and Parking

Section 3-101. Whenever a motor vehicle is to be left unattended, the operator thereof shall stop the engine, effectively set the brake, lock the ignition and doors and remove the key. If said vehicle is on a grade, the operator shall turn the front wheels to the curb or side of the way.

Whenever a motor vehicle required by law to have safety chock blocks is to be left unattended on a grade sufficient to cause said vehicle to move of its own momentum, the operator thereof shall securely place such blocks around the rear wheels of said vehicle in such a manner as to prevent the movement thereof.

Section 3-102. Whenever an automobile is parked within the limits of the traveled part of a highway during the period from one half an hour after sunset to one half an hour before sunrise, the operator thereof shall display one white or amber light on the side of the automobile nearer the center of such way, which shall be visible not less than two hundred feet in the direction toward which the automobile is facing; provided, that no such light need be displayed on an automobile when parked within a space in which unlighted parking is permitted by rules and regulations made under this chapter.

Section 3-103. Whenever a commercial vehicle having a gross weight in excess of five thousand pounds or any automobile service truck, so called, is disabled upon the traveled part of a highway during the period from one half an hour after sunset to one half an hour before sunrise, the operator thereof shall place three flares on such traveled part in the following positions: One flare in the center of the lane in which such disabled vehicle remains and approximately one hundred feet from such vehicle in the direction of traffic approaching in that lane; one flare not less than one hundred feet from such vehicle in the opposite direction in said lane; and one flare at the traffic side of such vehicle, not nearer than ten feet from the front or rear of such vehicle; provided, that if such vehicle is disabled within three hundred feet of a curve, crest of a hill, or other place where the view of such vehicle is obstructed, the flare in that direction shall be so placed as to afford ample warning to other persons using such way, and in no case less than one hundred feet nor more than five hundred feet from the disabled vehicle.

The word "flare" as used in this section shall mean either a lighted pot torch, a lighted red electric lamp, or a red emergency reflector warning device, which conforms to the requirements of the specifications adopted by the Interstate Commerce Commission for the construction and performance of such devices and bears the label of the Underwriters' Laboratory, Inc.

This section shall not apply to any streetcar or trackless trolley.

Section 3-104. Whoever violates any provision of sections 3-101 and 3-102 shall be punished by a fine of not more than fifty dollars.

Whoever violates any provision of section 3-103 shall be punished by a fine of not more than one hundred dollars.

Part 2. Restrictions on Standing and Parking

Section 3-201. Rules, regulations, orders, ordinances and by-laws made under this chapter relative to the parking of vehicles may provide for the payment of fees therefor. Fees received by a municipality for the use of parking meters shall be established and charged at such rates that the revenue therefrom shall not exceed in the aggregate the necessary expenses incurred by such municipality for the acquisition, installation, maintenance and operation of parking meters and the regulation of parking and other traffic activities incident thereto, except as otherwise provided in sections twenty-two B and twenty-two C of chapter forty.

No fee shall be charged by any municipality for the parking of any vehicle owned and driven by a disabled veteran or by a handicapped person and bearing the distinctive number plates authorized by subdivision (3) or (4) of section 2-303 of chapter eighty-one-J.

Section 3-202. A municipality may make orders, ordinances and by-laws relative to the parking of vehicles within the limits of private ways furnishing means of access for fire apparatus to any building, whether or not such ways be dedicated or open to public use.

Section 3-203. No person shall wilfully obstruct or delay the lawful movement of a trackless trolley by causing a vehicle to stand or to be parked in the path of such trackless trolley. Whoever violates any provision of this section, or aids or abets in any such violation, shall be punished in accordance with section ninety-four of chapter one hundred and sixty-one.

Section 3-204. No person shall abandon a motor vehicle on any public way, service way or private way, whether or not the same be dedicated or open to public use, or on any property other than his own without the permission of the owner or lessee of said property. Whoever violates any provision of this section shall be punished by a fine of not less than one hundred nor more than five hundred dollars. A conviction of a violation of this section shall be reported forthwith by the court to the registrar, who may revoke for a period not exceeding three months the license to operate motor vehicles of the person so convicted. No appeal, motion for new trial or exceptions shall operate to stay the revocation of such license.

Part 3. Power to Remove Vehicles Illegally Standing or Parked

Section 3-301. Rules and regulations made under this chapter by a state agency relative to the standing or parking of vehicles on ways under its control may provide for the removal to some convenient place of any vehicle standing or parked in any part of such a way in such a manner as to impede snow and ice control thereon, or in violation of any such rule or regulation which prohibits the parking or standing of all vehicles on such way or part thereof at such time and which recites that whoever violates such regulation shall be liable to charges for the removal and storage of the vehicle as well as subject to punishment by fine.

The department of public works may authorize by any such rule or regulation, with such limitations, if any, as may be deemed proper, the officer in charge of the uniformed branch of the state police, the superintendent of the metropolitan district police, and the principal police official of the police department of a municipality, or such sergeants or officers of higher rank as said officer or officials may from time to time designate, to cause the removal of such vehicles as hereinbefore provided by a person or persons in the employ of said police or police force, or by an independent contractor.

The metropolitan district commission may authorize the superintendent of the metropolitan district police force or such sergeants or officers of higher rank in said force as said superintendent may from time to time designate, to cause the removal of such vehicles by a person or persons in the employ of said commission, or by an

independant contractor.

The capitol police may cause the removal of any such vehicle from a way under their control in the manner provided in section twelve of chapter eight.

Section 3-302. Orders, ordinances and by-laws made by a municipality under this chapter relative to the standing or parking of vehicles on ways under its control may provide for the removal to some convenient place of any vehicle standing or parked in any part of such a way in such a manner as to impede snow and ice control thereon.

Section 3-303. In a municipality which accepts this section in the manner hereinafter provided, rules and regulations made under this chapter relative to the standing or parking of vehicles on ways under the control of such municipality may, with such limitations, if any, as may be deemed proper, authorize the chief officer of the police department or such sergeants or other officers of higher rank in the police department as he may from time to time designate, to remove, to some convenient place through the agency of a person or persons in the employ of the police department or by an independent contractor selected in accordance with law, ordinance or by-law, on the basis of competitive bids, any vehicle parked or standing on any part of any way under the control of the municipality in such a manner as to impede snow and ice control thereon, or in violation of any rule or regulation which prohibits the parking or standing of all vehicles on such ways or portions thereof at such time and recites that whoever violates it shall be liable to charges for the removal and storage of the vehicle as well as subject to punishment by fine.

This section shall take effect in a city having a Plan D or Plan E charter by the affirmative vote of a majority of all the members of the city council, and, in the case of other cities, by vote of the aldermen, subject to the provisions of the charter, and in a town by vote of a town meeting. Acceptance may be revoked in like manner at any time after the expiration of one year from the date of acceptance.

The provisions of this section shall not apply to the city of Boston.

Section 3-304. No vehicle shall be removed under sections 3-301 to 3-303, inclusive, if the same is owned by the commonwealth or a political subdivision thereof or by the United States or an instrumentality thereof, or registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States, and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered.

Section 3-305. Any board or officer authorized to cause the removal of a vehicle under this chapter shall keep a record of the register number, if any, of each vehicle so removed and of the place to which it was removed.

A vehicle so removed may be stored in a public garage. Liability may be imposed for the reasonable cost of such removal, and for the storage charges, if any, resulting therefrom, upon the owner of such vehicle; provided, that in the case of such removal and storage on behalf of a municipality under section 3-303, the liability so imposed for removal shall not exceed eight dollars, and the liability so imposed for storage shall not exceed one dollar and fifty cents for any twenty-four hour period and one dollar for any lesser period; and provided further, that in the case of such removal during snow removal operations, the liability so imposed for removal shall not exceed twelve dollars unless otherwise ordered by the department of public utilities after public hearing, and, upon any violation of this clause by any person subject to the provisions of chapter one hundred and fifty-nine B, whether or not the owner of such vehicle consents to its removal, the person so removing it shall be subject to the provisions of section twenty-one of said chapter.

Section 3-306. Neither the removal nor storage of a vehicle under the provisions of this chapter shall be deemed to be services rendered or work performed by a municipality or the police department thereof. The contractor shall be liable to the owner of such vehicle for any damage caused to it arising out of negligence in the course of such removal and storage.

Section 3-307. Whenever the board or officer having charge of the public ways of a municipality reasonably deems that any motor vehicle apparently abandoned by its owner and standing for more than seventy-two hours upon a public or private way therein, or on any property therein without the permission of the owner or lessee of said property, is worth less than the cost of removal and storage and expenses incident to disposition pursuant to sections seven to eleven, inclusive, of chapter one hundred and thirty-five, he may, without incurring liability on his part or on the part of the municipality, take possession of such motor vehicle and dispose thereof as refuse. The officer or member of the police department designated by the rules thereof as custodian of lost property may, likewise without liability, take possession of any such motor vehicle deemed worth more than the cost and expense aforesaid and dispose thereof pursuant to said sections seven to eleven, inclusive.

Part 4. Proceedings Against Owners and Operators
of Illegally Parked Motor Vehicles and Trailers

Section 3-401. Any police officer who takes cognizance of a violation of any provision of any rule, regulation, order, ordinance or by-law made under this chapter relative to the parking of motor vehicles and trailers shall forthwith give to the offender a notice to appear before the clerk of the district court having jurisdiction.

At or before the completion of each tour of duty, the officer shall give to his commanding officer those copies of each notice of such violation taken cognizance of during such tour which have not already been delivered or mailed by him as provided in section 3-404. Said commanding officer shall retain and safely preserve one of such copies and shall at a time not later than the beginning of the next court day after receipt of such notice deliver another of such copies to the clerk of the court before whom the offender has been notified to appear. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Such notice to appear shall be printed in such form as the chief justice of the municipal court of the city of Boston may prescribe for said court, and as the administrative committee of the district courts as created by section forty-three A of chapter two hundred and eighteen may prescribe for district courts other than said municipal court.

Section 3-402. Any person notified to appear before the clerk of the district court as provided in section 3-401 may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing or by mailing to such clerk the notice accompanied by the fine provided, such payment to be made only by postal note, money order or check made out to the clerk of the court. Payment of the fine established shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal. No person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

Should any person notified hereunder fail to appear and, if a fine is provided, to pay the same, or having appeared desire not to

avail himself of the benefits of the procedure established by this section, the clerk shall notify the officer concerned as soon as possible. Such officer shall forthwith make a complaint and follow the procedure established for criminal cases. Any such complaint may be signed by the complainant by imprinting thereon a facsimile of his signature. Said facsimile signature shall have the same validity as his written signature.

Section 3-403. In the case of a violation of any rule or regulation relative to the parking of motor vehicles and trailers made by a state agency, or by the county commissioners with respect to a way within a municipality wherein this section applies, or a violation of any rule, regulation, order, ordinance or by-law relative to the parking of such vehicles made by the city of Boston or Cambridge or by any other municipality which accepts this section, the notice provided in section 3-401 shall be in the form of a tag, which shall be prepared in triplicate and shall be prenumbered.

Said tag shall be affixed securely to the vehicle and shall contain but shall not be limited to the following information: The register number of the vehicle involved; the date, time and place of the violation; the specific offense charged and, if a meter violation, the number of said meter; the name and badge number of the officer and his division; a schedule of established fines; instructions for the return of the tag; and a notice which reads as follows: "This notice may be returned by mail, personally, or by an authorized person, and if properly returned shall be deemed non-criminal. A court hearing may be obtained upon the written request of the registered owner. Failure to obey this notice within twenty-one days after the date of violation will result in the owner's appearance in court on a criminal complaint."

Notice affixed to a motor vehicle as provided in this section shall be deemed a sufficient notice, and a certificate of the officer affixing such notice that it has been affixed thereto in accordance with this section shall be deemed *prima facie* evidence thereof and shall be admissible in any court of the commonwealth as to the facts contained therein.

Whoever unlawfully tampers with or removes from a vehicle, or unlawfully changes, mutilates or destroys, any notice affixed to such vehicle in accordance with this section shall be punished by a fine of not more than fifty dollars or imprisonment for not more than one month, or both.

Boards and officers to which this section applies shall make rules and regulations establishing a schedule of fines for violations of rules, regulations, orders, ordinances and by-laws made by them under this chapter relative to the parking of motor vehicles and trailers; provided, that all such fines shall be uniform for the same offense committed in the same zone or district, if any, except as hereinafter provided; and provided further, that any fine established under this section shall not exceed fifteen dollars, except for a violation of section 3-202. In the city of Boston, no such rule or regulation shall be established which imposes a fine in excess of one dollar for all-night parking except in those zones or districts, other than the residential areas of the north end, south end and west end districts, so called, within the criminal jurisdiction of the municipal court of the city of Boston. The said traffic and parking commission shall by rule establish the boundaries of said residential areas.

If any person fails to appear in accordance with the summons issued upon a complaint made under section 3-402, a warrant may issue for the arrest of such person, but only upon the express order of a justice of the district court having jurisdiction of the parking violation.

Section 3-404. In the case of a violation of any rule, regulation, order, ordinance or by-law relative to the parking of motor vehicles and trailers made by a municipality to which section 3-403 does not apply, or of any such rule or regulation made by county commissioners with respect to a way within such a municipality, the notice provided in section 3-401 shall be made in triplicate, and shall contain the name and address of the offender and, if served with notice in hand at the time of such violation, the number of his license, if any, to operate motor vehicles; the registration number of the vehicle involved; the time and place of the violation; the specific offense charged; and the time and place for appearance, which shall be at any time during office hours, in the case of a violation involving a vehicle registered under chapter eighty-one-J, not later than twenty-one days after the time of said violation, and in the case of a vehicle registered under the laws of another state or country, not later than thirty days after such time.

Such notice shall be signed by the officer, and shall be signed by the offender whenever practicable in acknowledgment that the notice has been received. The officer shall if possible deliver to the offender at the time and place of the violation a copy of said notice.

Whenever it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be sent by the officer, or by his commanding officer or any person authorized by said commanding officer, in the case of a violation involving a motor vehicle registered under chapter eighty-one-J, within five days of the offense, and in the case of any vehicle registered under the laws of another state or country, within ten days thereof, exclusive, in either case, of Sundays and holidays, to the address of the registrant of the vehicle involved, as appearing, in the case of a vehicle registered under chapter eighty-one-J, in the records of the registry of motor vehicles or, in the case of a vehicle registered under the laws of another state or country, in the records of the official in such state or country having charge of the registration of such vehicle.

Such notice mailed by the officer, his commanding officer or the person so authorized to the last address of said registrant as appearing as aforesaid, shall be deemed, a sufficient notice, and a certificate of the officer or person so mailing such notice that it has been mailed in accordance with this section shall be deemed *prima facie* evidence thereof and shall be admissible in any court of the commonwealth as to the facts contained therein.

No other form of notice, except as provided in this section, shall be given to the offender; and no notification shall be attached to the vehicle involved except one which reads as follows: "This tag has been attached because of a parking violation and must be returned by mail or personally to the police department within four days filled in with your name, address and license number. If this notification is returned as directed, no further action will be taken against you unless this is a second or subsequent offense."

The clerks of the district courts shall distribute such notices to the commanding officers of police departments upon request, and shall take a receipt therefor.

Fines for offenses subject to this section committed by a person within the jurisdiction of the court and in a particular municipality in a calendar year shall be as follows: for a first such offense, no fine; for a second, third, fourth or fifth such offense, a fine of one dollar; for a sixth or subsequent such offense, a fine of two dollars; provided, however, that this sentence shall not apply to any offense subject to this section committed in the town of Brookline; but, for such an offense, payment of the fine established therefor by

the traffic commission of said town shall operate as a final disposition of the case. Whenever it becomes necessary to ascertain whether a person owning two or more motor vehicles is chargeable as such owner with a first, second, third, fourth, fifth, sixth or subsequent offense hereunder, such question shall, in the case of vehicles singly registered, be determined separately with respect to the particular vehicle involved in such violation and, in the case of vehicles subject to section 2-203 of chapter eighty-one-J, with respect to the particular number plate or plates used on the vehicle involved in such violation at the time thereof.

If any person fails to appear in accordance with the summons issued upon a complaint made under section 3-402, the clerk shall, in the case of a first or second offense but for no subsequent offense, send such person, by registered mail, return receipt requested, a notice that the complaint is pending and that, if the person fails to appear within twenty-one days from the sending of such notice, a warrant for his arrest will be issued and the registrar of motor vehicles notified to suspend his right or license to operate motor vehicles. If any person fails to appear within twenty-one days from the sending of such notice or in accordance with the summons issued upon such complaint, as the case may be, the court shall issue a warrant for his arrest.

Section 3-405. If any person fails to appear within twenty-one days from the sending of a notice under section 3-404 that a complaint is pending, or in accordance with a summons issued upon a complaint under section 3-403, the clerk shall notify the registrar, who shall forthwith suspend the right of such person to operate motor vehicles, or his license, if any, to operate the same. The registrar shall not reinstate such right or license or issue a renewal thereof to such person until after notice from the clerk of the court disposing of such complaint that the same has been disposed of in accordance with law; and it shall be the duty of the clerk of the court disposing of such complaint to notify the registrar forthwith that such case has been so disposed of.

Section 3-406. No penalty shall be imposed upon any disabled veteran or handicapped person whose vehicle bears the distinctive number plates authorized by subdivision (3) or (4) of section 2-303 of chapter eighty-one-J, for parking such vehicle on any way for a longer period of time than permitted by any rule, regulation, order, ordinance or by-law made by a municipality under this chapter.

Section 3-407. In any prosecution for committing the crime of trespass by parking a motor vehicle upon a private way or upon improved or enclosed land, proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle shall be *prima facie* evidence that the defendant was the person who parked such vehicle upon such way or land at such time.

ARTICLE 4. EXCLUSION OF VEHICLES AND OTHER TRAFFIC

Section 4-101. A rule, regulation, order, ordinance or by-law made under section 1-301 by the department of public works or by or on behalf of a political subdivision of the commonwealth may exclude motor vehicles from any state highway or main county or municipal highway leading from one municipality to another only if it describes a reasonable alternate route and only for the following purposes:

(1) To exclude such traffic during the construction, reconstruction, improvement or maintenance of such highway while necessary for public safety and convenience; or

(2) To exclude only commercial vehicles having a carrying capacity of five tons or over from highways other than state highways; or

(3) In the case of a rule or regulation made by the department of public works relative to limited access state highways, to exclude only those vehicles determined by said department, because of their type or because of materials or products being transported therein, to be unsafe for such highways.

Section 4-102. A rule, regulation, order, ordinance or by-law made under this chapter by the city of Boston which excludes vehicular traffic from any public way therein or from any part thereof for the purpose of promoting recreation, play or sport shall be effective only after a written request therefor by the commissioner of parks and recreation of said city and the written approval of the police commissioner thereof. If any such rule, regulation, order, ordinance or by-law is made under this chapter by any municipality for the aforesaid purposes, due regard shall be given to the rights of abutting owners and the public in the use of such way or part thereof.

Section 4-103. Notwithstanding any rule, regulation, order, ordinance or by-law made under this chapter which excludes vehicles other than pleasure vehicles from any public way, a funeral procession shall have the right to use such way to the same extent and subject to the same regulations and restrictions as pleasure vehicles.

Section 4-104. The governor may make rules and regulations to exclude all traffic from public highways during target practice or maneuvers of any organization or unit of the armed forces of the United States or of any state thereof, whenever he deems that public convenience or safety so requires.

Section 4-105. The department of public works may make rules and regulations fixing the routes of commercial motor vehicles on any public way or private way dedicated to public use, except a way under the control of the metropolitan district commission, and excluding such vehicles from ways not included within such routes. If any person is convicted of a second or subsequent violation of any rule or regulation made hereunder, the registration of the vehicle or vehicles involved shall be suspended for such length of time as the registrar may determine.

Section 4-106. The inspector of buildings of a municipality may close any public highway therein for purposes of protecting the public against injury from a structure described in section nine of chapter one hundred and forty three.

Section 4-107. Any board or officer having charge of public ways shall, if public safety so requires, close any private way, whether or not the same be dedicated or open to public use, at the intersection thereof with any such public way or caution the public against entering such private way by other sufficient means.

Section 4-108. No vehicle shall be driven within three hundred feet of any fire apparatus going to a fire or responding to an alarm.

No vehicle shall be driven or left unattended within eight hundred feet of a fire or within the fire lines established by any fire department, or upon or beside the traveled part of any highway leading to the scene of a fire, or in such a manner as to obstruct the approach to a fire of any emergency vehicle.

No vehicle shall be driven over a fire hose of any fire department without the consent of a member of such department.

Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars.

Section 4-109. No motor vehicle shall draw more than one trailer or other vehicle without a permit from the department of public works. Whoever operates a motor vehicle in violation of any provision of this section or of the terms of any permit granted hereunder shall be punished by a fine of not more than one hundred dollars.

Section 4-110. No animal or vehicle shall be ridden or driven on or across public grounds or open spaces within the limits of public ways under the care and control of a corporation organized under section four of chapter one hundred and eighty. Whoever wilfully or maliciously violates any provision of this section shall be punished by a fine of not more than fifty dollars, which shall be paid over to such corporation.

Section 4-111. No animal shall be ridden or driven on any public bicycle path except to cross the same; provided, that the board or officer having charge of such path may prescribe limits within which this section shall not apply. Whoever violates any provision of this section shall be punished by a fine of not more than fifty dollars.

Section 4-112. No person shall knowingly transport or cause or authorize to be transported any animal on any public way which he knows or has reasonable cause to believe is affected with a contagious disease, in violation of section thirty of chapter one hundred and twenty-nine or contrary to an order issued under section thirty-five of said chapter.

Section 4-113. No person shall lead, ride, drive or transport a diseased, lame or otherwise disabled horse on any public way in violation of section seventy-eight of chapter two hundred and seventy-two.

Section 4-114. No person shall lead, drive or transport a dangerous wild animal on any public way or cause it to travel thereon, unless such animal is properly secured in a covered vehicle or cage. Whoever violates any provision of this section shall be punished by a fine of not more than fifty dollars.

Any such animal which is found upon a public way not so secured or caged may be killed by a sheriff, constable or police officer.

Section 4-115. No person shall operate a motor vehicle on any private way, whether or not the same be dedicated or open to public use, which motor vehicles are prohibited from using by the owner or person in control thereof; provided, that notice of such prohibition is conspicuously posted or indicated by markings or barriers at the entrance of such way. Whoever violates any provision of this section shall be punished by a fine of not more than fifty dollars.

ARTICLE 5. PERSONS AND PROPERTY TRANSPORTED

Part 1. Transportation of Passengers

Section 5-101. The transportation of passengers for hire by a motor vehicle under the jurisdiction of the department of public utilities shall be subject to the provisions of chapter one hundred and fifty-nine A and to rules and regulations made thereunder, so far as the same are applicable.

Section 5-102. The registrar may make rules and regulations relative to the transportation of passengers by school buses.

Section 5-103. Rules, regulations, orders, ordinances and by-laws made under this chapter by a municipality relative to the transportation of passengers therein may provide for the issuance of licenses for the operation of hackneys and taxicabs and an annual fee of one dollar therefor.

Section 5-104. No person shall ride on the outside of any streetcar, bus or trackless trolley without the consent of the person in charge thereof. Whoever violates any provision of this section shall be punished by a fine of not more than fifty dollars.

Section 5-105. No person shall ride a bicycle other than upon a permanent and regular seat attached thereto. No operator of a bicycle shall permit any person in excess of the number for which such bicycle is designed and equipped to ride thereon.

Part 2. Transportation of Property

Section 5-201. The transportation of property by a commercial motor vehicle under the jurisdiction of the department of public utilities shall be subject to the provisions of chapter one hundred and fifty-nine B and to rules and regulations made thereunder, so far as the same are applicable.

The operator of a commercial motor vehicle of a motor carrier, as defined in section two of chapter one hundred and fifty-nine B, when requested by an investigator or examiner of the commercial motor vehicle division of said department who is in uniform or displays his badge conspicuously on his person, shall submit to such investigator or examiner all transportation documents which are in his possession, including bills of lading, way bills and other

papers relating to the cargo of said vehicle, and shall submit the cargo and other contents, if any, of said vehicle to such reasonable examination as may be necessary to inform the investigator or examiner of the nature thereof. No detailed examination of the cargo shall be made that requires the removal of the cargo from the vehicle except at a place where the vehicle stops for the purpose of loading or delivery. Any such operator who violates any provision of this paragraph, and any such motor carrier who causes any such violation, personally or by his agent, shall be punished by a fine of not less than twenty-five nor more than fifty dollars for the first offense, and not less than fifty dollars nor more than one hundred dollars for any subsequent offense.

Section 5-202. Rules and regulations made under this chapter by the department of public works which prohibit the transportation of unsafe materials or products on limited access state highways may prescribe penalties of not more than five hundred dollars for the violation thereof.

Section 5-203. No person shall transport alcohol or alcoholic beverages upon public way except as provided in section twenty-two of chapter one hundred and thirty-eight.

Section 5-204. Whoever, being a minor and unaccompanied by his parent or legal guardian, operates a motor vehicle upon a public way, knowing that there is any alcoholic beverage, as defined in section one of chapter one hundred and thirty-eight, in such vehicle or on his person, shall be punished by a fine of not more than fifty dollars.

Any person who violates any provision of this section may be arrested without a warrant by any police officer and kept in custody not more than twenty-four hours, Sunday excepted, at or before the expiration of which period of time he shall be brought before a proper court or magistrate and proceeded against according to law.

A conviction of a violation of this section shall be reported forthwith by the court to the registrar, who shall suspend the license of such person to operate motor vehicles for not less than one month nor more than three months.

Section 5-205. No person shall remove or transport garbage, offal or other offensive substances upon a county way, municipal way or private way dedicated to public use, without first obtaining a permit from the board of health of the municipality wherein such

way is located. An application for such permit shall be in such form and contain such information, on oath, as such board shall require. All such permits shall expire at the end of the calendar year in which they are issued, but may be renewed annually on application as herein provided. No permit shall be transferred except with the approval of the said board.

Notwithstanding the foregoing provisions, any person may, without such a permit, transport garbage, offal or other offensive substances through ways within a municipality in which said substances were not collected; provided, that he registers with said board; and provided further, that he transport said substances in accordance with such reasonable rules and regulations as may be made by said board and in accordance with such ordinances and by-laws as may be made by said municipality under this chapter.

Whoever violates any provision of this section or any rule or regulation made by said board of health hereunder shall be punished by a fine of not more than fifty dollars. Any ordinance or by-law made under this chapter by a municipality relative to the transportation of said substances may prescribe penalties of not more than one hundred dollars for the violation thereof.

Section 5-206. Except as hereinafter provided, no person shall have in his possession or under his control a loaded rifle or shotgun on any public way or in any motor vehicle on any land not owned or occupied him. Any person shall, upon the demand of any officer authorized to enforce chapter one hundred and thirty-one, display any rifle or shotgun in his possession or under his control to which this section applies.

Whoever violates any provision of this section may be arrested without a warrant by any police officer and kept in custody not more than twenty-four hours, Sunday excepted, at or before the expiration of which period of time he shall be brought before a proper court or magistrate and proceeded against according to law.

Any person convicted of having a rifle or shotgun in a motor vehicle in violation of this section other than on a public way shall be punished by a fine of not less than twenty nor more than one hundred dollars. Any person convicted of having a rifle or shotgun on a public way in violation of this section shall be punished by a fine of not less than twenty nor more than two hundred dollars; and said rifle or shotgun shall be confiscated by the com-

monwealth, and on the authority of the written order of the court shall be forwarded to the commissioner of public safety, who may dispose of the same in the manner prescribed in section ten of chapter two hundred and sixty-nine.

This section shall not apply to any rifle or shotgun in the possession or under the control of any police officer, or any person charged with the protection of persons or property, while acting in the discharge of his duties as such; nor shall it apply to a rifle or shotgun carried other than in a motor vehicle by a person engaged in hunting who holds a valid license therefor under sections six to nine, inclusive, or section fifty-one, of chapter one hundred and thirty-one; nor shall it apply to the operation of a shooting gallery, licensed and defined under the provisions of section fifty-six A of chapter one hundred and forty, or to persons using the same.

Section 5-207. No person shall carry a firearm in any vehicle in violation of section one hundred and thirty-one C of chapter one hundred and forty.

Section 5-208. No person shall move a building on a public way without a permit of the board or officer having charge of such way, to be granted upon such terms as in their opinion the public safety may require. The superior court shall have jurisdiction in equity to enforce this section.

Section 5-209. Whenever a person wishes to move a building, equipment or machinery on a public way in such a manner as to require the cutting, disconnection or removal of any wires owned, operated or maintained by a railroad corporation or public utility company in connection with its business, said corporation or company shall forthwith cut, disconnect or remove such wires if such person has sent a written statement, signed by him, of the time when and the place where he wishes such wires to be cut, disconnected or removed, by mailing the same, postage prepaid, to said corporation or company at least ten days before the time mentioned in such statement. The place where such wires are to be cut, disconnected or removed shall be described in such statement by reference to the crossings of the public way on which such movement is to occur. Such person shall reimburse said corporation or company for all costs incurred in connection with such movement, including the cost of protecting the trains, equipment and other property of said corporation or company by reason thereof, and the cost of cutting, disconnecting or removing such wires and replacing the same.

Section 5-210. No person shall transport live poultry on any public way in connection with the sale thereof except as provided in sections one hundred and fifty-two A and one hundred and fifty-two B of chapter ninety-four. No person shall so transport bovine animals except as provided in section forty-one of chapter one hundred and twenty-nine.

ARTICLE 6. MOTOR VEHICLES INVOLVED IN ACCIDENTS

Part 1. Rights and Duties of Owners and Operators

Section 6-101. Any operator of a motor vehicle who knowingly collides with or otherwise causes injury to any person or property shall stop at the scene of the accident and make known his name, residence and the register number of the vehicle he is operating.

Whoever leaves the scene of such accident without complying with this section shall be punished by a fine of not less than twenty nor more than two hundred dollars or imprisonment for not less than two weeks nor more than two years, or both.

Any person who violates any provision of this section may be arrested without a warrant by any police officer and kept in custody not more than twenty-four hours, Sunday excepted, at or before the expiration of which period of time he shall be brought before a proper court or magistrate and proceeded against according to law.

Any conviction under this section shall be subject to the provisions of section 2-209 of chapter eighty-one-J relative to the revocation of the license or right to operate motor vehicles of the person so convicted and of the registration of any motor vehicles owned by him or under his exclusive control; provided, that no new license or right to operate motor vehicles shall be issued by the registrar to any person convicted of leaving the scene of an accident without stopping and making known his name, residence and the register number of the vehicle he is operating, after having knowingly collided with or otherwise caused injury to any person, until one year after the date of such conviction, or, in the case of a second or subsequent such conviction, until two years after the date thereof.

Section 6-102. Any operator of a motor vehicle who knowingly causes an accident described in section 6-101 shall, upon request of the person injured or the person owning or in charge of the property injured, plainly display his license or permit to operate such vehicle and the certificate of registration thereof; provided, that he need not display such license, permit or certificate if he is not required by law to have the same in his possession at the time of such accident.

Whoever violates any provision of this section shall be punished by a fine of not more than fifty dollars.

Section 6-103. Every person operating a motor vehicle which is in any manner involved in an accident in which any person is killed or injured or in which there is damage in excess of two hundred dollars to any one vehicle or other property shall within five days after such accident report in writing to the registrar on a form approved by him and send a copy thereof to the police department having jurisdiction over the place on the way where such accident occurred. Such report shall not be required during the period of incapacity of any person who is physically incapable of making a report. If the operator is not the owner of the vehicle and is physically incapable of making such written report, the owner shall within five days after the accident make such report based on such knowledge, as he may have and such information as he can obtain regarding the accident.

Either the registrar or the police department having jurisdiction over the place on the way where the accident occurred may require any such operator or owner to file a supplementary written report whenever in the opinion of the registrar or such police department the original report is insufficient.

Whoever violates any provision of this section shall be punished by a fine of not more than fifty dollars. The registrar may revoke or suspend the license to operate motor vehicles of any such violator.

Section 6-104. The Massachusetts bay transportation authority, and any railroad corporation, railway company and carrier of passengers for hire by motor vehicle under the jurisdiction of the department of public utilities, shall give notice of any accident on or connected with a motor vehicle owned by it, resulting in loss of life, in accordance with section twenty-eight of chapter one hundred and fifty-nine.

Nothing in this section shall be construed as exempting the owner or operator of any motor vehicle herein described from compliance with the provisions of section 6-103.

Section 6-105. Any action of tort for injuries suffered by a person, for the death of a person or for injury to property, arising out of an accident or collision in which a motor vehicle was involved, shall be subject to the provisions of sections 2-101 to 2-503, inclusive, of chapter eighty-one-M.

Part 2. Powers and Duties of Public Officers

Section 6-201. The chief officer of the police department of municipality, the chairman of the board of selectmen of such towns as have no regular police department, the commanding officer of metropolitan district commission police stations, or, in the case of toll highways, the chief officer of the police force having jurisdiction to enforce laws relating to motor vehicles thereon, shall notify the registrar within fifteen days, upon blanks furnished by him, of the particulars of every accident referred to in section 6-103 which happens within the limits of his municipality or jurisdiction, or on such toll highway, in which a motor vehicle is involved, together with such further information relative to such accident as the registrar may require, and shall also, if possible, ascertain the name of the person operating such vehicle and notify the registrar of the same.

Section 6-202. The registrar may investigate the cause of any accident in which any motor vehicle is involved, and for this purpose may send his investigators into other states.

Section 6-203. The department of public utilities shall investigate any accident upon or involving a motor vehicle of a carrier of passengers under the jurisdiction of said department, which causes the death or imperils the life of any person, in accordance with section twenty-nine of chapter one hundred and fifty-nine.

Section 6-204. The court or justice holding an inquest in any case of death in which a motor vehicle is involved shall give seasonable notice of the time and place of such inquest to the registrar and, if such vehicle is owned by a carrier of passengers under the jurisdiction of the department of public utilities, to said department.

Section 6-205. If the court or justice holding an inquest be-

lieves that it relates to an accidental death involving the operation of a motor vehicle owned by a carrier of passengers under the jurisdiction of the department of public utilities, such court or justice shall cause a verbatim report of the evidence to be made and sworn to by the person making it; and the report and the bill for services, after examination and written approval by such court or justice, shall be forwarded to said department within thirty days after the date of such inquest, and, when made, a copy of the report of the court or justice on such inquest shall be forwarded to said department. The bill therefor, when approved by said department, shall be forwarded to the comptroller and paid by the commonwealth; and shall thereafter be assessed on the person owning or operating such motor vehicle, and shall be collected in the same manner as taxes upon corporations.

The court or justice may refuse fees to witnesses in the employ of the person licensed by said department for the operation of the motor vehicle involved.

Section 6-206. The registrar shall suspend forthwith the license of any person operating a motor vehicle which is involved in an accident resulting in the death of any person, and shall order the said license to be delivered to him, unless a preliminary investigation indicates that the operator may not have been at fault; and the registrar shall revoke the same unless, upon investigation and after a hearing, he determines that the accident occurred without serious fault on the part of the operator of such motor vehicle, and shall order said license to be delivered to him if not already delivered as aforesaid. No person whose license to operate motor vehicles is revoked under this section shall be licensed again within six months after the date of the suspension, or the date of the revocation if it was not suspended prior to the revocation, nor thereafter except in the discretion of the registrar; provided, that the foregoing shall not be construed to authorize the exercise of such discretion contrary to any provision of section 2-702 or 6-101 of this chapter, or any provision of section 2-209, 7-211, 8-305 or 8-402 of chapter eighty-one-J.

Section 6-207. The governor's highway safety committee created by chapter ninety-A shall conduct studies and programs with respect to the problems of highway safety, and shall make recommendations to the legislature with respect thereto, in accordance with section four of said chapter.

Section 6-208. The aldermen or selectmen of a municipality may conduct and maintain a specific program of safety activities designed to prevent automobile accidents.

ARTICLE 7. MOTOR VEHICLES INVOLVED IN NUISANCES
AND CRIMES

Section 7-101. No person shall use on or in connection with any motor vehicle a horn, bell, wheel spinner or other device in such a manner as to make a harsh, objectionable or unreasonable noise. No person shall use a muffler cut-out or by-pass under any circumstances.

Section 7-102. No person shall permit an unreasonable amount of smoke or fumes to escape from any motor vehicle.

Section 7-103. No person shall use on or in connection with any motor vehicle a spot light emitting rays which shine more than two feet above the highway at a distance of thirty feet from such vehicle; provided, that such a spot light may be used for the purpose of examining signs, house numbers and landmarks, and as an auxiliary light in cases of necessity when other vehicle lights required by law fail to operate.

Section 7-104. Whoever violates any provision of sections 7-101 to 7-103, inclusive, shall be punished by a fine of not more than fifty dollars.

Section 7-105. If any motor vehicle is used in unlawfully disposing of garbage, refuse or other material within the limits of a public highway or within sixty feet thereof, a conviction thereof shall forthwith be reported by the court to the registrar, and the registrar may suspend the license of the operator of such vehicle for not more than thirty days. If it appears from the records of the registrar that the person so convicted is the owner of the motor vehicle so used, the registrar may suspend the certificate of registration of said vehicle for thirty days.

Section 7-106. If any motor vehicle is used to hunt any mammal or to aid in such hunting, the person so using such vehicle shall be punished as provided in section seventy-eight E of chapter one hundred and thirty-one.

Section 7-107. If any motor vehicle is used in connection with the commission of a felony, of any larceny, or of any offense punishable under any provision of sections twenty-two, one hundred and thirteen to one hundred and seventeen, inclusive, and one hundred

and twenty of chapter two hundred and sixty-six, of which a person is convicted, the material facts relative to such use, including the register number of the vehicle, so far as disclosed in the proceedings, shall be reported forthwith to the registrar by the clerk of the court in which or by the trial justice before whom the conviction occurs.

P R O P O S E D H I G H W A Y C O D E

C H A P T E R 8 L - L

P H Y S I C A L C H A R A C T E R I S T I C S A N D
C O N D I T I O N O F V E H I C L E S

CHAPTER 81-L

PHYSICAL CHARACTERISTICS AND CONDITION OF VEHICLES

ARTICLE 1. CONSTRUCTION, EQUIPMENT AND
CONDITION OF VEHICLES

Part 1. General Requirements

Section 1-101. Sections 1-102 to 1-801, inclusive, except as otherwise therein provided, shall apply to vehicles operated on any public way, service way or private way dedicated to public use, but on no other way or place.

Section 1-102. All equipment required by this chapter and, in the case of motor vehicles and trailers, all equipment determined by the registrar to be necessary for the safe operation thereof shall be maintained in good operating condition at all times.

Section 1-103. The registrar shall make rules and regulations relative to the construction, equipment and condition of motor vehicles and trailers, which shall include the following:

(1) Establishment of minimum standards for the construction, equipment and performance of such vehicles, to the extent practicable; provided, that such rules and regulations shall not apply to a motor vehicle operated by a holder of a certificate issued by the department of public utilities under chapter one hundred and fifty-nine-A, except as otherwise provided in this chapter;

(2) Provision for the periodic inspection of all motor vehicles and trailers between April first and May fifteenth and between September first and October fifteenth, all dates inclusive, in each year, for the purpose of determining whether they have brakes, stoplamps, other lamps, horn, exhaust system, steering gear, windshield cleaner, number plates, rear windows, tires, fenders, bumpers, external sheet metal, reflectors, splash guards, chock blocks and all other equipment determined by the registrar to be necessary for the safe operation thereof, and whether all such equipment is maintained in good operating condition;

(3) Provision for the inspection of motor vehicles and trailers which are registered between one inspection period and the next ensuing inspection period;

(4) Provision for the issuance of a windshield sticker, so called, to the owner or person in control of every motor vehicle so inspected and found to be properly equipped, and for the display of such sticker on the windshield of each vehicle so inspected and found to be properly equipped.

A copy of such rules and regulations attested by the registrar shall be prima facie evidence that they have been made as provided by law.

Section 1-104. If the registrar shall determine at any time that a motor vehicle or trailer is for any reason unsafe or improperly equipped or otherwise unfit to be operated, he may refuse to register such motor vehicle or trailer or, if it is already registered, may suspend or revoke its registration.

Section 1-105. During the effective period of a state of emergency declared under chapter six hundred and thirty-nine of the acts of nineteen hundred and fifty, as amended, the governor may regulate or restrict the use of signs and markers on vehicles, in accordance with section seven of said chapter, as amended.

Part 2. Provisions Applicable to All Motor Vehicles

Section 1-201. Every motor vehicle, except as otherwise provided by this chapter, shall have the following equipment:

(1) Brakes adequate to control the movement of the vehicle;

(2) A white lamp so mounted as to illuminate and not obscure the rear number plate of the vehicle;

(3) A suitable horn;

(4) A mirror or reflector so mounted on the inside or outside of the vehicle, and so adjusted, as to afford the operator a clear reflected view of the highway in the rear of the vehicle; provided, that if the vehicle is so constructed, equipped or

loaded that the operator is prevented from having a constantly free and unobstructed view of the highway immediately to the rear by means of a mirror on the inside of the vehicle, it shall have a mirror on the outside thereof;

(5) A muffler or other suitable device so designed as to prevent excessive and unnecessary noise; provided, that this subdivision shall not apply to fire apparatus;

(6) Suitable guards or their equivalent which will effectively reduce the splash of mud, water or slush to the rear of the vehicle which may be caused by its rear wheels; provided, that the registrar may exempt any vehicle from the application of this subdivision.

Section 1-202. No person shall service, install give away, or sell or offer for sale, for use on a passenger motor vehicle, a used brake drum the interior diameter of which exceeds sixty-thousandths of one inch maximum oversize, nor shall any person turn or grind a used brake drum for use on a passenger motor vehicle to an interior diameter any greater than sixty-thousandths of one inch maximum oversize.

Section 1-203. No person shall sell, offer for sale, distribute or install brake linings for use on motor vehicles unless they are of a type and specification approved by the registrar. Under authority granted by section 1-103, the registrar shall adopt such regulations governing types and specifications of brake linings as to comply with approved safety standards, and shall establish and maintain an approved list of brake linings which meet the specifications so established.

Section 1-204. No motor vehicle shall have mounted thereon a red lamp which may be displayed in the direction toward which the vehicle is proceeding or facing except in the following cases:

(1) Such a lamp may be mounted on fire apparatus, an ambulance or a school bus.

(2) Such a lamp may be mounted on a vehicle owned and operated by a fire ward, forest warden, deputy forest warden, chief or deputy chief of any auxiliary fire department, member of a fire department of any town, call member of a fire department, when such vehicle is proceeding to a fire or responding to an alarm and when the official duty of such owner and operator required him to proceed to said fire or to respond to said alarm. No such red light shall be mounted or displayed on such vehicle until a written permit therefor, in form approved by the registrar, has been issued and delivered to the owner and operator by the chief of the fire department or the board of fire engineers of the municipality or by the chief or chief engineer of the fire district wherein the owner and operator resides and has his primary official duties as fire ward, forest warden, deputy forest warden, member or call member of a fire department. Any person operating a vehicle upon which a red light herein authorized is mounted shall have the permit for said light upon his person or in the vehicle in some easily accessible place. Such permit shall be revoked by the issuing authority upon written request of the registrar, or when the holder thereof terminates the duties which warranted the issuance of the permit, or for unauthorized use of such light, and a permit shall not be reissued to the same owner without the written consent of the registrar. Upon revocation of his permit, the owner and operator shall forthwith deliver it to the issuing authority and remove the red lights herein authorized from his vehicle. The board or officer issuing such permit shall forthwith give notice to the head of the police department of the municipality and to the registrar of the name, place of residence and address of each person to whom such permit is issued and the name of the maker, the engine number and the registration number of each vehicle upon which the red light is to be displayed, and said board or officer shall certify under penalties of perjury that each person to whom a permit has been issued is a duly authorized fire ward, forest warden, deputy forest warden, member, or call member of a fire department. Like written notice shall be given immediately by the issuing authority of each permit revoked and of the receipt thereof. Annually, on or before July first, said board or officer shall deliver to said head of the police department and to the registrar a list of all

permits outstanding and unrevoked containing the information and certification hereinbefore required. Nothing in this subdivision shall authorize any owner or operator to disregard or violate any statute, rule, regulation, ordinance or by-law regarding motor vehicles or their use.

(3) Such a lamp may be mounted on an emergency disaster service vehicles bearing distinctive number plates issued under subdivision of section of chapter eighty-one-J, but may be used only when such vehicle is responding to an official alarm of fire or disaster.

Section 1-205. No motor vehicle shall have mounted thereon a blue lamp which may be displayed in the direction toward which the vehicle is proceeding or facing except in the following cases:

(1) Such a lamp may be mounted on a vehicle used by any police department of the commonwealth or a political subdivision thereof soley for the official business of such department.

(2) Such a lamp may be mounted on a vehicle so authorized by rules and regulations of the registrar.

Section 1-206. No motor vehicle shall have mounted thereon a siren or any other device which makes an unnecessary or objectionable noise except in the following cases:

(1) Fire apparatus, ambulances, vehicles used in the official line of duty by any member of the police or fire fighting forces of the commonwealth or any agency or political subdivision thereof, and vehicles owned by call fire fighters or by persons with police powers and operated in the official line of duty;

(2) An emergency disaster service vehicle which displays the distinctive number plates issued under subdivision of section of chapter eighty-one-J; provided, that such vehicle is responding to an official alarm of fire or disaster;

(3) A vehicle having mounted thereon a siren or other device designed to protect the vehicle or its cargo from theft.

Section 1-207. No motor vehicle shall be equipped (1) with a muffler from which the baffle plates, screens or other original internal parts have been removed and not replaced; or (2) with an exhaust system which has been modified in a manner which will amplify or increase the noise emitted by the exhaust.

Section 1-208. No motor vehicle shall be equipped with partitions, doors, windows or windshields of glass unless such glass is of a type designed to minimize the likelihood of personal injury from its breaking or scattering when broken, and no motor vehicle shall be sold or offered for sale unless it complies with the aforesaid requirements; provided, that this section shall not apply to a vehicle manufactured prior to January first, nineteen hundred and thirty-six, or to an antique motor car.

Section 1-209. No motor vehicle shall be operated when there is anything on or in the vehicle or on or about the operator which may interfere with or impede the proper operation of the vehicle or of any of the machinery or appliances by which the vehicle is operated or controlled.

Section 1-210. No motor vehicle shall be operated when equipped with any television viewer, screen or other means of visually receiving a television broadcast which is located in the vehicle at any point forward of the back of the driver's seat or which is visible to the operator.

Section 1-211. Every motor vehicle purchased by the commonwealth shall be marked on a part of the vehicle not readily removable, and in a conspicuous place, with the words in plain letters "Commonwealth of Massachusetts", or in such other manner as may be approved by the state purchasing agent, who may make rules and regulations governing the marking of such motor vehicles. Any officer of the commonwealth appointed by the governor who fails to comply with an order, rule or regulation made under authority hereof may be removed by the governor.

Section 1-212. Every emergency disaster service vehicle which displays the distinctive number plates issued under subdivision of section of chapter eighty-one-J shall be marked, on a part of the vehicle not readily removable, and in a conspicuous place, with the insignia of the corporation to which it is registered and with words identifying the vehicle as an emergency disaster service unit.

Section 1-213. The registrar shall furnish at no less than cost to members of the council, senate and house of representatives and to constitutional officers, plates of a distinctive design suitable for attachment to any motor vehicle owned solely or in part by those members and officers and registered under chapter eighty-one-J. No other person shall display or have attached to a motor vehicle any vehicle insigne, seal or facsimile as would create the impression of official position except as otherwise provided by law.

Section 1-214. Notwithstanding any other provision of this chapter, a vehicle which is used in interstate commerce, which is subject to the regulations of the interstate commerce commission, and the equipment of which conforms to such regulations shall be deemed to conform to the equipment requirements of this chapter.

Part 3. Provisions Applicable to All Automobiles

Section 1-301. Every automobile, in addition to complying with the requirements of sections 1-201 to 1-214, inclusive, shall, except as otherwise provided in this chapter, have the following equipment:

- (1) At least two braking systems, one of which shall be the service brake system, and the other of which shall be the parking brake system, each with a separate means of application, each operating directly or indirectly on at least two wheels and each of which shall suffice alone to stop the automobile within a proper distance as defined in rules and regulations of the registrar; provided, that if such systems are connected, combined or have any part in common, such systems shall be so constructed that a breaking of any one element thereof will not leave the automobile without brakes acting directly or indirectly on at least two wheels; and provided further, that every automobile equipped with a hydraulic braking system, whether or not assisted

by other means, which provides "braking action" on four or more wheels shall be equipped with a service brake system so arranged as to provide separate systems for at least two wheels and so designed and constructed that a failure of any single component of the service brake system, other than the brake pedal or its attachments, will not leave the automobile without operative service brakes on at least two wheels; and provided further, that one braking system shall be so constructed and designed that it can be set to hold the vehicle stationary and will be capable of being applied and released by the operator from the normal operating position, and that all braking systems shall be constructed and designed so as to permit modulated control of brake application and release by the operator from the normal operating position; and provided further, that this subdivision shall not apply to a vehicle manufactured for any model year prior to nineteen hundred and sixty-eight, or to a tractor subject to section 1-508;

(2) At least two headlamps, with at least one so mounted at each side of the vehicle as to display a white light in the direction toward which the vehicle is proceeding or facing;

(3) At least two taillamps and two stoplamps, with at least one of each so mounted at each side of the rear of the vehicle as to display a red light from behind the vehicle; provided, that an antique motor car or a farm tractor need be equipped with only one such taillamp and one such stoplamp;

(4) Electric directional signals on the front and rear of the vehicle, and a device to permit all such signals to flash simultaneously in the event of an emergency; provided, that this subdivision shall not apply to a vehicle manufactured for any model year prior to nineteen hundred and sixty-seven, or to a vehicle not registered under chapter eighty-one-J;

(5) At least two safety seat belts for the use of occupants of the front seats of the vehicle; provided, that this subdivision shall not apply to a vehicle manufactured for any model year prior to nineteen hundred and sixty-five, or to a bus, tractor or commercial vehicle, or to a vehicle not registered under

chapter eighty-one-J, but shall apply to any vehicle used by a driver school or by any other school for the purpose of training drivers, regardless of such manufacture or registration;

(6) A lock and key, or other device to prevent the vehicle from being set in motion by unauthorized persons, or otherwise, contrary to the will of the owner or person in charge thereof.

Section 1-302. The requirements of clause (1) of section 1-402, relative to the display of the words "School Bus", shall apply to an automobile having permanent seating accommodations for and carrying eight or nine persons in addition to the operator, regularly used for the transportation of children to or from school or in connection with school activities; provided, that a vehicle other than a school bus shall display such words only while being used for the aforesaid purposes.

Section 1-303. Every automobile used by a person in giving driving instruction for compensation shall be equipped with dual clutch and brake controls, whereby he may release the clutch and apply the brake while the pupil is driving.

Section 1-304. No person shall sell or offer for sale an automobile subject to the requirements of subdivision (5) of section 1-301 which is not equipped with safety seat belts as therein provided.

No person shall sell or offer for sale a safety seat belt to be used in a motor vehicle which does not comply with such minimum standards as the registrar may prescribe. No person shall for compensation install a safety seat belt in a motor vehicle except in the manner prescribed by the registrar.

Part 4. Provisions Applicable to Buses

Section 1-401. Every bus, in addition to complying with the requirements of sections 1-201 to 1-304, inclusive, shall, except as otherwise provided in this chapter, have the following equipment:

(1) Air brakes, including a pedal or floor treadle valve for the operation thereof; provided, that this subdivision shall not apply to a school bus or to a vehicle having an unladen weight of ten thousand pounds or less;

(2) At least one pair of adequate safety chock blocks conforming to the requirements of subdivision (2) of section 1-501;

(3) A red reflector so mounted at the rear of the vehicle as to reflect rays of light brown upon such reflector from behind.

Section 1-402. Every school bus, except as herein-after provided, shall have the following equipment:

(1) The words "School Bus" on the front and rear of the vehicle in black letters of not less than six inches in height and in strokes of not less than three quarters inch in width on a yellowish orange background, or upon signs attached to the front and rear of the vehicle, such words to be plainly legible at a distance of at least three hundred feet in the direction towards which they are displayed;

(2) The name of the registered owner on each side of the vehicle in letters of not less than two inches in height, so as to be plainly visible from each side;

(3) A yellowish orange body color similar to that commonly known as "National School Bus Chromé"; provided, that fenders and trim may be black; and provided further, that this subdivision shall not apply to a motor vehicle operated under a certificate issued under section seven of chapter one hundred and fifty-nine A and a permit issued under section eight of said chapter;

(4) Front and rear blinker lights of a type approved by the registrar;

(5) Adequate seating accommodations for each passenger transported therein; provided, that such a bus in which adequate straps, handles or other supports are available for standing passengers may carry not exceeding ten per cent more passengers than those for whom adequate seating accommodations are provided.

Section 1-403. No permit shall be issued for a bus by the department of public utilities under section eight of chapter one hundred and fifty-nine A until an inspector of said department finds that such bus conforms to the rules and regulations of said department with respect to type, construction, equipment and operating condition. Such permit may be revoked or suspended by said department at any time when it appears that such bus does not conform to such rules and regulations. An employee of a carrier subject to the provisions of said chapter one hundred and fifty-nine A may make a complaint to said department of a defect in any bus of such carrier in accordance with section thirty of chapter one hundred and fifty-nine.

Section 1-404. Rules and regulations made by the registrar under section 1-103 shall provide for the inspection, during the first week of the months of January, March, May, September and November in each year, of (1) school buses and (2) of buses operated under a certificate issued under section seven of chapter one hundred and fifty-nine A or a permit issued under section eight of said chapter which are used for the transportation of children to or from school or in connection with school activities, other than such buses used simultaneously as public common carriers or designed primarily for transit-type use. Such inspections shall be in addition to the periodic inspections referred to in said section 1-103.

Rules and regulations made under said section may establish minimum standards for construction and equipment of school buses without regard to any prior date when they were operated as such, and may establish such standards for all other buses subject to the first paragraph of this section.

Part 5. Provisions Applicable to Trucks, Tractors and Similar Vehicles

Section 1-501. Every truck, tractor and commercial motor vehicle, in addition to complying with the requirements of sections 1-201 to 1-304, inclusive, shall, except as otherwise provided in this chapter, have the following equipment:

- (1) Air brakes, including a pedal or floor treadle valve for the operation thereof; provided, that this subdivision shall not apply to fire apparatus, or to any vehicle having an unladen weight of ten thousand pounds or less;
- (2) At least one pair of adequate safety chock blocks, designed and constructed so as to be capable (a) of holding the vehicle or combination on any grade on which it is operated under any condition of loading on a surface free from snow and ice, and (b) of not being overridden or deviated from the wheel path by a freely moving vehicle, when placed three inches away from the wheels in the direction of vehicle movement; provided, that this subdivision shall not apply to a truck or combination having an unladen weight of four thousand pounds or less;
- (3) A lamp so mounted on the extreme left of the front of the vehicle as to display an amber light indicating the extreme left lateral dimension of the vehicle or load and visible in the direction toward which the vehicle is proceeding or facing; provided, that this subdivision shall not apply to a vehicle having a carrying capacity of less than six thousand pounds, or to a vehicle other than a truck or other commercial motor vehicle used solely as such;
- (4) A red reflector so mounted at the rear of the vehicle as to reflect rays of light thrown upon such reflector from behind; provided, that this subdivision shall not apply to any vehicle other than a commercial motor vehicle, or to any such vehicle having a laden weight of twelve thousand pounds or less.

Section 1-502. Every motor vehicle which carries a load or object extending four feet or more beyond the bed or body of the vehicle shall display at the extreme rear end of such load or object a red light plainly visible from the sides and rear of the vehicle at all times during which motor vehicles are required to display lights, and shall display in place thereof a red flag of cloth not less than twelve inches square at all other times.

Section 1-503. Every commercial vehicle having a gross weight in excess of five thousand pounds and any automobile service truck, so called shall, at all times during which motor vehicles are required to display lights, carry three flares in a position where they are easily accessible to any person desiring to use the same and to any officer or official authorized to inspect said vehicle. Such flares shall comply with the provisions of section 12-104 of chapter eighty-one-K.

The registrar may suspend the registration of any commercial motor vehicle not equipped as hereinbefore provided for not more than fifteen days.

This section shall not apply to streetcars or trackless trolleys.

Section 1-504. The operator of a truck, before operating the same, shall test the brakes and otherwise check the vehicle. If the vehicle is found to be unsafe in any respect, the unsafe condition shall be reported to the owner or other proper authority, and the vehicle shall not be operated until it has been made safe.

Section 1-505. Every industrial truck, lift truck or jitney, except as otherwise provided in this chapter, shall have the following equipment whenever operated on any public way, service way or private way or place, whether dedicated or open to public use or otherwise;

(1) A substantial guard designed to protect the operator whenever operated from an end platform, and to allow the operator quick and easy access to and from his operating position;

(2) A canopy guard to protect the operator from falling objects, if required by the division of industrial safety of the department of labor and industries; provided, that this subdivision shall apply only to a high-lift truck (lift jitney);

(3) A vertical back rest or back guard at the rear of the load platform handling small objects or unstable loads; provided, that this subdivision shall apply only to a high-lift truck (lift jitney) which is not equipped with a canopy guard as provided in subdivision (2).

Section 1-506. Every industrial truck (lift jitney) and tractor, except those guided or controlled by a walking operator, shall have a suitable horn or other warning device whenever operated on any public way, service way or private way or place, whether dedicated or open to public use or otherwise.

Section 1-507. A tractor having a draw-bar pull rating of ten horse power or less and capable of a maximum speed of not more than eighteen miles an hour and designed specially for use elsewhere than on the traveled part of a highway may be operated thereon if equipped with a single braking system which shall suffice to stop such tractor within a proper distance as defined in rules and regulations of the registrar.

Section 1-508. Notwithstanding any other provision of this chapter, any tractor or other self-propelled vehicle used exclusively for agricultural purposes, excepting passenger vehicles and trucks, the use of which is declared by the owner or person in control thereto to be restricted to the period from a half hour before sunrise to a half hour after sunset, need be equipped only with one stop lamp or a flashing red lamp to the rear, and with brakes as manufactured, including a stationary brake with ratchet and pawl.

The person making the periodic inspection of motor vehicles as provided in this chapter shall issue a windshield sticker, so called to any vehicle described in the foregoing paragraph if the lamp and brakes therein required are in good operating condition, notwithstanding the failure of such vehicle to have the other equipment required by this chapter. Any windshield sticker so issued shall state thereon that such vehicle is to be used upon the ways of the commonwealth only during the period from a half hour before sunrise to a half hour after sunset.

Part 6. Provisions Applicable to Motorcycles

Section 1-601. Every motorcycle, in addition to complying with the requirements of sections 1-201 to 1-214, inclusive, shall have the following equipment:

- (1) At least one brake adequate to stop the vehicle within a proper distance as defined in rules and regulations of the registrar;

(2) At least one headlamp and one additional headlamp on the side-car, if any, which in all cases shall be so mounted as to display a white light in the direction toward which the vehicle is proceeding or facing;

(3) At least one taillamp and one stoplamp, each to be so mounted at the rear of the vehicle as to display a red light from behind the vehicle.

Part 7. Provisions Applicable to Vehicles Other Than Motor Vehicles

Section 1-701. Every trailer, except as hereinafter provided, shall have the following equipment:

(1) Air or electric brakes; provided, that this subdivision shall not apply to a trailer having an unladen weight of ten thousand pounds or less;

(2) Safety chains fastening the trailer to the towing vehicle, in addition to a regular hitch, to prevent it from breaking away; provided, that this subdivision shall not apply to a semi-trailer;

(3) Taillamps and stoplamps as required for automobiles under subdivision (3) of section 1-301 provided, that a trailer having a gross weight of three thousand pounds or less which does not obscure the required lights of the towing vehicle need be equipped with only one such taillamp and one such stoplamp;

(4) A number plate lamp as required for motor vehicles under subdivision (2) of section 1-201;

(5) An amber lamp as required for trucks, tractors and commercial motor vehicles under subdivision (3) of section 1-501; provided, that this subdivision shall not apply to a trailer having a carrying capacity of less than six thousand pounds;

(6) A red reflector as required for trucks, tractors and commercial motor vehicles under subdivision (4) of section 1-501;

(7) A light or flag indicating the extreme rear end of any load or object extending four feet or more beyond the bed or body of the vehicle, as required for motor vehicles under section 1-502;

(8) Safety chock blocks as required for trucks, tractors and commercial motor vehicles under subdivision (2) of section 1-501;

(9) Mud guards as required for motor vehicles under subdivision (6) of section 1-201.

Section 1-702. Every bicycle having at least one wheel which exceeds twenty inches in diameter, except as hereinafter provided, shall have the following equipment:

(1) An adequate brake which will enable the operator to stop the vehicle quickly and evenly;

(2) A headlamp so mounted on the front of the vehicle as to display a white light which is visible for not less than five hundred feet in the direction toward which the vehicle is proceeding or facing;

(3) A red reflector so mounted on the rear of the vehicle as to be visible for not less than three hundred feet to the rear when in the upper beams of the headlamps of a motor vehicle;

(4) A marking of white or reflectorized paint or reflectorized tape on the lower portion of the rear fender of the vehicle and on the upper portion of both sides of the front fork, on an area of approximately five square inches in each case;

(5) A suitable bell, horn or other signalling device capable of giving a signal audible for at least two hundred feet; provided, that no bicycle shall be equipped with a siren or whistle, nor shall any person use a siren or whistle upon any bicycle.

The provisions of subdivisions (2), (3) and (4) shall apply only to a bicycle operated at a time during which motor vehicles are required to display lights.

Section 1-703. Every vehicle, other than a motor vehicle, trailer or vehicle designed for propulsion by human muscular power, shall be equipped with a lamp or lamps visible from the front and rear of the vehicle; provided, that any vehicle carrying hay or straw for the purpose of transporting persons on a hayride shall have only electrically operated lamps which display two flashing amber lights to the front and two flashing red lights to the rear, each of said lamps to be at least six inches in diameter and mounted six feet from the ground.

The operator or custodian of any such vehicle shall be deemed to be the person responsible therefor and shall be criminally liable for any violation thereof.

Section 1-704. Every sleigh or sled drawn by any animal shall be equipped with at least three bells attached to some part of the harness.

Part 8. Penalties for Violations

Section 1-801. (1) Whoever violates any provision of section 1-702 shall be punished by a fine of one dollar. Any such violation by a minor under the age of eighteen shall not be considered a criminal offense nor shall it affect any civil right or liability; provided, that if a minor under the age of eighteen commits any such violation, the police department of the municipality having jurisdiction thereof, or, in a town which has no organized police department, the selectmen, may, with the consent of the parent or guardian of such minor, impound such bicycle for a period not exceeding fifteen days.

(2) Whoever violates any provision of section 1-503 and 1-704 shall be punished by a fine of not more than twenty-five dollars.

(3) Whoever violates any provision of sections 1-201, 1-203 to 1-209, inclusive, 1-213, 1-301 to 1-402, inclusive, 1-501, 1-502, 1-504, 1-507, 1-508, 1-601, 1-701 and 1-703 shall be punished by a fine of not more than one hundred dollars; provided, that such fine shall be not less than twenty-five dollars for the violation of any provision of subdivision (1) of section 1-201, subdivision (1) of section 1-301, section 1-303, subdivisions (1) and (2) of section 1-401, subdivisions (1) and (2) of section 1-501, section 1-507, section 1-508, subdivision (1) of section 1-601 and subdivisions (1) and (8) of section 1-701.

(4) Whoever violates any provision of section 1-210 shall be punished by a fine of one hundred dollars.

(5) Whoever violates any provision of any rules and regulations made by the registrar under sections 1-103 and 1-104 shall be punished by a fine of not more than two hundred dollars.

(6) Whoever violates any provision of sections 1-505 and 1-506 shall be punished by a fine of two hundred dollars.

(7) Whoever violates any provision of section 1-202 shall be punished by a fine of not more than five hundred dollars.

ARTICLE 2. DIMENSIONS AND WEIGHTS OF VEHICLES

Part 1. General Provisions Relative to Dimension and Weight Limitations

Section 2-101. Sections 2-102 to 2-310, inclusive, except as otherwise therein provided, shall apply to vehicles operated on a public way, service way or private way dedicated to public use, but on no other way or place.

Section 2-102. Rules and regulations made by the metropolitan district commission and the department of natural resources under sections 1-101 to 1-108, inclusive, of chapter eighty-one-I relative to the use of ways, except as otherwise provided by law, may include restrictions on the dimensions and weights of vehicles operated thereon.

Rules, regulations, orders, ordinances and by-laws made by other state agencies and by political subdivisions of the commonwealth and boards and officers thereof under said sections may include such restrictions only to the extent provided in this chapter.

Section 2-103. The department of public works may make rules and regulations restricting the dimensions and weights of loads carried by commercial vehicles. Whoever violates any such rule or regulation shall be punished by a fine of not more than fifty dollars. Upon a second or subsequent conviction involving a motor vehicle, the registration of such vehicle or vehicles shall be suspended for such length of time as the registrar may determine.

Part 2. Limitations on Dimensions

Section 2-201. No vehicle, the outside width of which is more than ninety-six inches or the extreme over-all length of which is more than thirty-three feet or, in the case of a bus or truck, thirty-five feet, shall be operated, except as provided in sections 2-202 and 2-203, without a special permit from the board or officer having charge of the way on which such vehicle is operated or, in case of a way determined by the department of public works to be a through route, from said department.

For purposes of this section and sections 2-202 and 2-203, the terms "width" and "length" shall be inclusive of the load.

Section 2-202. Notwithstanding the provisions of section 2-201, the limitations therein provided on the width of vehicles may be exceeded without a special permit in the following cases:

(1) Pneumatic tires which project beyond the rims of the wheels for such distance on either side of the vehicle or trailer as will not increase its outside width above one hundred and two inches;

(2) A bus operated by the Massachusetts bay transportation authority having an outside width not in excess of one hundred and two inches, while within the limits of the municipalities constituting said authority;

(3) A trackless trolley or a vehicle operated on rails.

Section 2-203. Notwithstanding the provisions of section 2-201, the limitations therein provided on the length of vehicles may be exceeded without a special permit in the following cases:

(1) A semi-trailer unit having an extreme over-all length not in excess of fifty feet;

(2) A motor vehicle or trailer, other than a semi-trailer unit, having an extreme over-all length not in excess of sixty feet, when used for the transportation of poles or single units of lumber or metal;

(3) A bus having an extreme over-all length not in excess of forty feet, (a) when used within the municipalities constituting the Massachusetts bay transportation authority in the case of a bus operated by said authority, or (b) when used on ways designated by the department of public utilities in all other cases;

(4) Any vehicle or combination of vehicles being towed because of disablement or emergency; provided, that such vehicle or combination shall be forthwith removed from the traveled part of the highway, and shall not be towed beyond the first available location where separation of combination units or repairs can be effected.

Section 2-204. No truck crane having a crane or boom which extends more than four feet beyond the bed or body of the vehicle shall be operated or drawn unless vehicles approaching from the rear are protected from the rear projecting crane or boom by another vehicle following immediately behind the projecting extremities of the truck crane.

Section 2-205. Whoever violates any provision of sections 2-201 to 2-204, inclusive, or the terms of any permit granted thereunder, shall be punished by a fine of not more than one hundred dollars.

Part 3. Limitations on Weights

Section 2-301. No vehicle which weighs more than twenty-eight thousand pounds shall be operated, except as provided in sections 2-302, 2-303 and 2-304, without a permit from the board or officer having charge of the way on which such vehicle is operated or, in the case of a way determined by the department of public works to be a through route, from said department.

For purposes of this section and sections 2-302 to 2-310, inclusive, the terms "weigh" and "weight" shall be inclusive of any load carried or moved in any manner by the vehicle.

Section 2-302. Notwithstanding the provisions of section 2-301, the limitations therein provided may be exceeded without a permit by any vehicle other than a trailer in the following cases:

- (1) A vehicle equipped with pneumatic tires which weighs not more than thirty thousand pounds;
- (2) A vehicle equipped with three axles and pneumatic tires which weighs not more than forty thousand pounds.

Section 2-303. Notwithstanding the provisions of section 2-301, the limitations therein provided may be exceeded without a permit by a motor vehicle having two axles which weighs not more than forty-six thousand pounds, and by a semi-trailer unit or a motor vehicle having three or more axles which weighs not more than seventy-three thousand pounds; provided, that no such motor vehicle or semi-trailer unit, the weight on any axle of which, measured at the ground, exceeds twenty-two thousand four hundred pounds; or, in case of axles spaced less than six feet apart, eighteen thousand pounds, shall so travel without such a permit; and provided further, that the gross weight of any such vehicle together with its load expressed in pounds shall not exceed that shown on the following table without such a permit:--

Distance in Feet Between the First and Last Axles of a Motor Vehicle or Semi- Trailer Unit (L)	Maximum Gross Weight in Pounds (W)
---	--

7	32,000
8	33,000
9	34,000
10	35,000
11	36,000
12	37,000
13	38,000
14	39,000
15	40,000
16	41,000
17	42,000
18	43,000
19	44,000
20	45,000
21	46,000
22	47,000
23	48,000

24	49,000
25	50,000
26	51,000
27	52,000
28	53,000
29	54,000
30	55,000
31	56,000
32	57,000
33	58,000
34	59,000
35	60,000
36	61,700
37	63,400
38	65,100
39	66,800
40	68,500
41	70,200
42	71,900
43 or over	73,000

Section 2-304. Notwithstanding the provisions of sections 2-301 and 2-303, the limitations therein provided may be exceeded without a permit by a construction-type motor vehicle having two axles and hauling construction materials, which weighs not more than forty-six thousand pounds, or by a construction-type semi-trailer unit or motor vehicle having three axles and hauling construction materials, or a semi-trailer unit or motor vehicle having three axles and carrying liquid petroleum products, which weighs not more than sixty thousand pounds; provided, that the gross weight of such vehicle as operated does not exceed the gross vehicle weight rating as established by the original manufacturer of the chassis; and provided further, that such vehicle is duly registered under chapter eighty-one-J for such weight.

Section 2-305. No trailer which weighs more than three thousand pounds shall be operated or drawn without a permit from the department of public works, except as hereinafter provided. A semi-trailer, a heavy-duty platform trailer, a cable-reel trailer, a house trailer or a trailer which is an apparatus or other object on wheels not used to transport other things for delivery, shall not be subject to the foregoing limitation.

A trailer which weighs not more than five thousand pounds may be operated or drawn if it is equipped with suitable brakes. A trailer which weighs not more than

four thousand pounds may be operated or drawn, if such trailer is used exclusively for agricultural purposes, but this provision shall not prevent any trailer, if used exclusively for such purposes, from being operated without registration in the manner provided in section 2-109 of chapter eighty-one-J. A trailer which weighs more than three thousand pounds may be operated or drawn for a distance not exceeding three hundred yards, if such trailer is used for industrial purposes other than agricultural purposes, for the purpose of going from property owned or occupied by the owner of such trailer to other property so owned or occupied.

Notwithstanding any of the foregoing provisions, trailers which weigh not more than five thousand pounds, and heavy duty single-deck trailers which weigh not more than eight thousand pounds, used exclusively for the transportation of tobacco in connection with the growing and producing thereof, may be registered and thereafter operated or drawn for a distance not exceeding five miles.

Section 2-306. No motor vehicle or trailer or semi-trailer unit shall be operated, nor shall the owner or bailee thereof require or permit such operation, when the gross weight of such motor vehicle or trailer or semi-trailer unit exceeds either that provided by this chapter or the gross weight for which such vehicle is registered, nor shall any person load or cause to be loaded such vehicle in excess of such weights.

Section 2-307. Rules and regulations made by the department of public works and by political subdivisions of the commonwealth and boards and officers of such political subdivisions under sections 1-101 to 1-108, inclusive, of chapter eighty-one-I relative to the use of ways, may include restrictions on the weights of vehicles operated thereon, except as hereinafter provided.

No such rule or regulation shall be effective to exclude motor vehicles from any state highway or from any main county or municipal highway leading from any municipality to another, other than a rule or regulation of heavy commercial vehicles having a carrying capacity of ten thousand pounds or over on such main highways which describes a reasonable alternative route.

No such rule or regulation shall exclude vehicles from any way until there shall have been erected, upon the ways affected thereby and at such points as said department and the registrar, acting jointly may designate, signs, conforming to standards adopted by said department,

setting forth the restrictions established by the regulation, and then only during the time such signs are in place.

No such rule or regulation made by or on behalf of any political subdivision of the commonwealth shall be effective unless the following further requirements are met:

- (1) That any such rule or regulation has been published in one or more newspapers having general circulation in the municipality affected thereby;
- (2) That any such rule or regulation affecting the operation of motor vehicles has been certified in writing by the department of public works to be consistent with the public interest;
- (3) That any such rule or regulation affecting the use of a way determined by the department of public works to be a through route, or the use of a bridge over a public way having a span in excess of twenty feet, has been approved by said department;
- (4) That any such rule or regulation relative to signs, signals, markings or other devices on or along such way has been approved by the department of public works and otherwise complies with the requirements of section 5-101 of chapter eighty-one-E, and only so long as such approval and compliance continue in effect.

Section 2-308. A permit issued under sections 2-301 to 2-307, inclusive, may limit the time during which it shall be in force and the ways which may be used, and may contain any provisions or conditions necessary for the protection of such ways from injury.

Section 2-309. Whoever violates any provision of sections 2-301 to 2-306, inclusive, or of any rule or regulation made under section 2-307, or whoever violates the terms of any permit granted under any of said sections, shall be punished by a fine of not less than ten dollars for each one thousand pounds of weight by which the gross weight of his vehicle exceeds that permitted; provided, that no such fine shall be more than six hundred dollars.

Section 2-310. Every operator of a motor vehicle, upon request or direction of any police officer or any person duly appointed by the registrar as an examiner, investigator, supervising inspector with the power to hold hearings, or supervisor or assistant supervisor of special services, drive such motor vehicle with any trailer which may be attached thereto to the nearest scale available to the commonwealth within a distance of not more than five miles and permit the weighing thereof together with its load.

In the case of a motor vehicle of a motor carrier, as defined in section two of chapter one hundred and fifty-nine B, the operator thereof shall also perform the foregoing acts upon request or direction of an investigator or examiner of the commercial motor vehicle division of the department of public utilities.

Whoever violates any of the foregoing provisions of this section shall be punished by a fine of not less than two hundred nor more than six hundred dollars.

Whenever such vehicle has been so weighed and is found to weigh in excess of the limits provided in this chapter, it shall not be further operated unless the gross weight shall have been reduced to comply with said limits by the removal of the excess weight. Whoever violates any provision of this paragraph shall be subject to the penalties provided in section 2-309.

ARTICLE 3. DESTRUCTION OF AND INJURY TO VEHICLES

Section 3-101. Whoever wilfully and maliciously sets fire to, or burns or otherwise destroys or injures by burning, or causes to be burned or otherwise so destroyed or injured, or whoever aids, counsels or procures the burning of any vehicle, whether the same is the property of himself or of another and whether occupied or unoccupied, shall be punished by imprisonment in the state prison for not more than three years, or by a fine of not more than five hundred dollars and imprisonment in a jail or house of correction for not more than one year; provided, that if the vehicle so destroyed or injured is a streetcar, any violater of this section shall be punished by imprisonment in the state prison for not more than ten years, or by a fine of not more than five hundred dollars and imprisonment in a jail or house of correction for not more than two and one half years.

Section 3-102. Whoever wilfully and maliciously attempts to set fire to, or attempts to burn, or aids, counsels or assists in such an attempt to set fire to or burn, any vehicle, whether the same is the property of himself or of another and whether occupied or unoccupied, or whoever commits any act preliminary thereto or in furtherance thereof, shall be punished by imprisonment in a jail or house of correction for not more than two and one half years or a fine of not more than five hundred dollars.

The placing or distributing of any flammable, explosive or combustible material or substance or any device in or against any such vehicle in an arrangement or preparation with intent eventually to wilfully and maliciously set fire to or burn the same or to procure the setting fire to or burning of the same shall, for the purposes of this section, constitute an attempt to burn such vehicle.

Section 3-103. Whoever unlawfully and intentionally injures, molests, meddles or tampers with or destroys any vehicle, or any part, appliance, mechanism, apparatus or appurtenance thereto, without violating any provision of section 3-101, shall be punished by a fine of not more than two hundred dollars or imprisonment for not more than six months, or both; provided, that if the vehicle so injured, molested, meddled or tampered with or destroyed is a bus, any violater of this section shall be punished by a fine of not more than five hundred dollars, or imprisonment for not more than two years, or both.

SPECIAL CRIMINAL AND CIVIL PROCEEDINGS UNDER MOTOR VEHICLE LAWS

ARTICLE 1. CRIMINAL PROCEEDINGS

Section 1-101. The following terms used in sections 9-101 to 9-110, inclusive, shall have the following meanings for the purpose of said sections, except where a different meaning is clearly apparent from the language or context, or such construction is inconsistent with the manifest intention of the legislature:

"Audit sheet", a sheet of paper which shall contain a list of the issuance and disposition of each citation in each citation book in such form as the registrar shall approve, and which shall include but need not be limited to the following information: -- the police department or organization to which the citation book was issued, the offense, the name and address of the offender, the name of the issuing officer and the disposition.

"Automobile law violation", a violation of any statute, rule, regulation, order, ordinance or by-law relating to the operation or control of motor vehicles, other than a violation of any provision of a rule, regulation, order, ordinance or by-law regulating the parking of motor vehicles which is subject to sections 12-401 to 12-403, inclusive, of chapter eighty-one-K, and other than a violation of any provision of chapter one hundred and fifty-nine B.

"Citation", a notice upon which a police officer shall record an occurrence involving one or more automobile law violations by the person cited. Each citation shall be numbered consecutively in such form as the registrar shall approve and shall consist of the following parts: -- (1) the original, to be given, mailed or delivered to the offender as provided in this chapter; (2) a request for a complaint, which shall be a copy of the original and which when completed and signed shall direct the application for a complaint to the appropriate district court or to a justice of the peace authorized to issue complaints under chapter two hundred and eighteen;

the first time, and the first time that I have seen it in the field.

THE VENUS FLYTRAP AND THE SPIDER

The Venus Flytrap is a small plant, growing only about 10 cm. high, with a few long, narrow leaves, which are covered with short, stiff hairs. These hairs are so sensitive that they can detect the approach of even the smallest insect, and if it touches them, the leaves close around it, and the plant then digests the insect.

When I first saw the plant, I was very interested in it, and I thought that it would be a good idea to bring some of the plants back with me. So I picked a few leaves and put them in my pocket. But when I got home, I found that the leaves had all turned brown and were dead. This was a great disappointment to me, because I had been looking forward to growing the plant in my garden. But I soon realized that I had made a mistake, and I decided to leave the plant where it was.

After a few days, I went back to the same spot where I had found the plant, and I was happy to see that the plant was still alive and healthy. I took a few more leaves and put them in my pocket again. But when I got home, I found that the leaves had all turned brown and were dead. This was another great disappointment to me, because I had been looking forward to growing the plant in my garden. But I soon realized that I had made a mistake, and I decided to leave the plant where it was.

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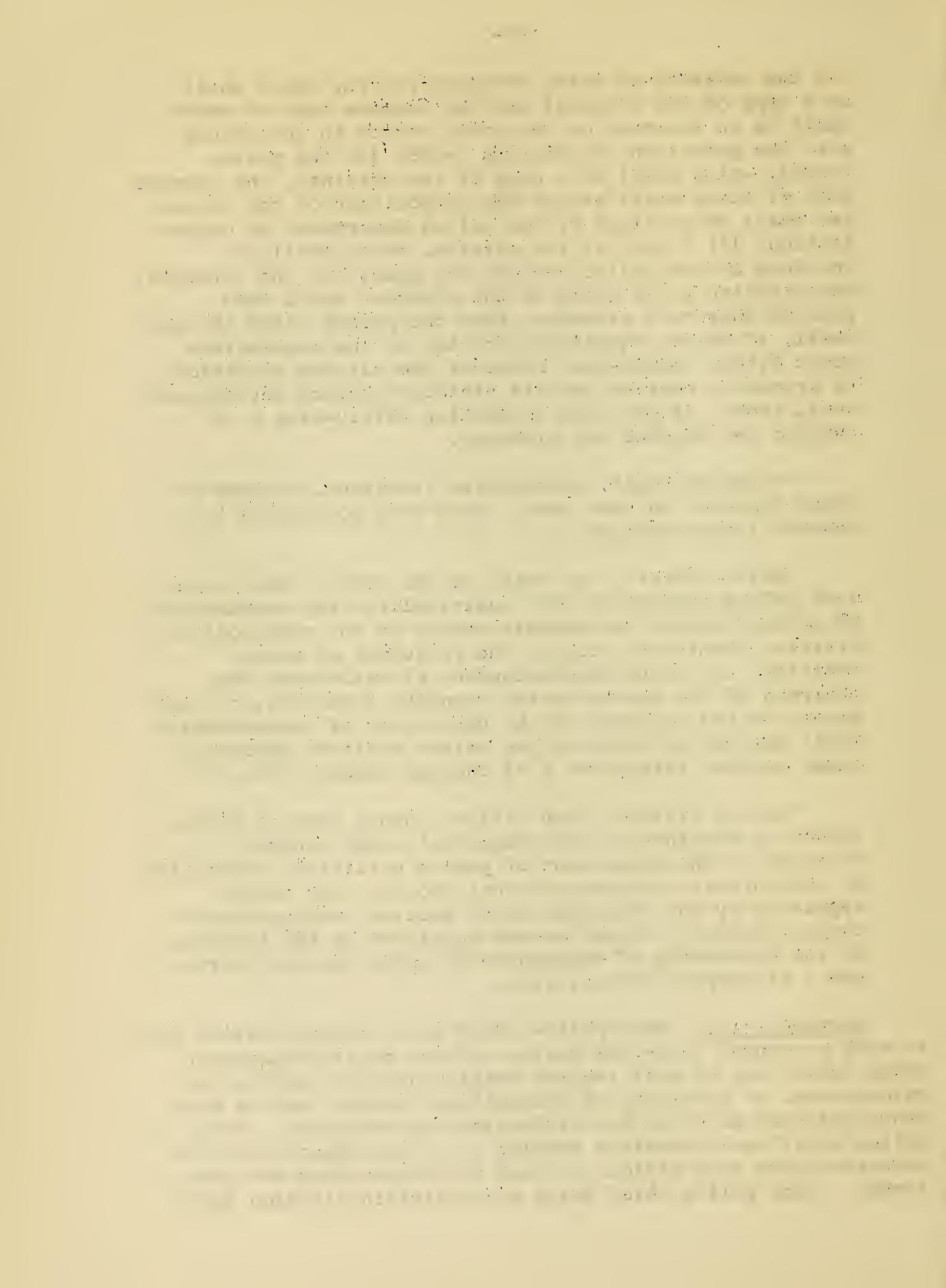
(3) the registry of motor vehicles record, which shall be a copy of the original and the reverse side of which shall be an abstract of the court record in accordance with the provisions of section 1-109; (4) the police record, which shall be a copy of the original, the reverse side of which shall record the disposition of the charge and shall be retained by the police department or organization; (5) a copy of the original which shall be retained by the police officer who makes out the citation. The citation to be given to the offender shall have printed thereon a statement that the person cited therein shall, if he so requests in writing to the appropriate court within twenty-four hours of the alleged violation, be granted a hearing on said violation before any process shall issue, as provided in section thirty-five A of chapter two hundred and eighteen.

"Citation book", twenty-five citations, stapled or bound together in book form. Each such book shall be consecutively numbered.

"Police chief", the chief or the head of the organized police department of a municipality, the commissioner of public safety, the superintendent of the metropolitan district commission police, the registrar of motor vehicles, the state superintendent of buildings, the chairman of the Massachusetts turnpike authority, or such person as the trustees of the University of Massachusetts shall appoint as chief of the police officers appointed under section thirty-two A of chapter seventy-five.

"Police officer", any officer, other than an investigator or examiner of the commercial motor vehicle division of the department of public utilities, authorized to make arrest or serve criminal process, any person appointed by the registrar under section twenty-nine of chapter ninety, and any person appointed by the trustees of the University of Massachusetts under section thirty-two A of chapter seventy-five.

Section 1-102. Each police chief shall issue citation books to each permanent full-time police officer of his department whose duties may or will include traffic duty or traffic law enforcement, or directing or controlling traffic, and to such other officers as he at his discretion may determine. Each police chief shall obtain a receipt on a form approved by the registrar from such officer to whom a citation book has been issued. Each police chief shall also maintain citation books



at police headquarters for the recording of automobile law violations by police officers to whom citation books have not been issued.

Any police officer assigned to traffic enforcement duty shall record the occurrence of automobile law violations upon a citation, filling out the citation and each copy thereof as soon as possible and as completely as possible and indicating thereon whether a complaint shall be applied for, or whether a written warning shall be issued. Said police officer shall inform the offender of the violation and shall give the original of the citation to the alleged offender.

A failure to give the original of the citation to the offender at the time and place of the violation shall constitute a defense in any trial for such offense, except where the violator could not have been stopped, or where the court finds that some other circumstance, not inconsistent with the purpose of this section, namely, to cause violators of automobile law to be brought uniformly to justice, justifies the failure. In such case the automobile law violation shall be recorded upon a citation as soon as possible after such violation and the citation shall be delivered to the offender or mailed to him at his residential or mail address or to the address appearing on his license or registration.

At or before the completion of his tour of duty a police officer to whom a citation book has been issued and who has recorded the occurrence of an automobile law violation upon a citation shall deliver to his police chief or to the person duly authorized by him all remaining copies of such citation duly signed, except the police officer's copy which shall be retained by him. If the police officer has directed than an application for a complaint be filed, said police chief or person authorized by him shall deposit the parts of the citation designated as the request for a complaint, together with a duly executed application for a complaint and the registry of motor vehicles record, with the court having jurisdiction over the offense at a time no later than two days after the date of the citation, Sundays and legal holidays excepted. If the police officer has directed that a written warning be issued, the part of the citation designated as the registry of motor vehicles record shall be forwarded forthwith by the police chief or person authorized by him to the registrar of motor vehicles and shall be kept by the registrar in his main office. If the registrar receives three such written warnings to the same offender within a period of twelve months, he shall forthwith suspend the

license or right to operate of such person for a period of seven days, from which suspension there shall be a right of appeal in accordance with the provisions of section twenty-eight of chapter ninety; provided, however, that such an appeal shall stay the operation of such suspension. The decision of the board of appeals on motor vehicle policies and bonds shall be final on such an appeal.

If a police officer arrests any person without a warrant for any automobile law violation, such arrest shall be noted on the request for the complaint.

If a citation is spoiled, mutilated or voided, it shall be endorsed with a full explanation thereof by the police officer voiding such citation, and shall be returned to the registrar forthwith and shall be duly accounted for upon the audit sheet for the citation book in which said citation had been included.

Nothing in this chapter shall prevent a person other than a police officer from applying for a criminal complaint for an automobile law violation, and such person need not show that the alleged offender has been issued a citation in connection with such offense.

Section 1-103. The registrar shall prepare citation books and distribute the same to each police chief, and shall obtain receipts therefor. Each police chief shall accept and be responsible for all citation books issued to his department. The registrar shall also furnish two audit sheets with each citation book, said audit sheets to have the same number as the citation book.

When a citation has been completed the police chief or an officer of a rank not less than sergeant, or in the case of the state police of a rank not less than corporal and who is in charge of a state police barracks, shall record the issuance and disposition of said citation and enter the required information upon the audit sheet. When the twenty-five citations in a citation book are issued or used, the police chief shall sign and return a completed audit sheet to the registrar, keeping the other audit sheet for the files of his department. The registrar may at any time demand and inspect any citation, citation book or audit sheet used by any police department or police chief.

Section 1-104. If any person summoned to appear before a court for an automobile law violation fails without good cause to appear at the time and place specified on the summons, and has failed to comply with the provisions of section 1-105, the clerk of court to which said summons was returnable shall immediately notify the registrar, who shall suspend any motor vehicle license issued to such person, and such person shall not be eligible for reinstatement of his license until he shall have appeared before said court and answered to the charge made against him.

Section 1-105. The clerk of a district court or an assistant clerk or other person designated by said clerk shall accept waiver of trial, plea of guilty, and payment of fine from any person summoned to appear before such court on a complaint alleging violation of any law relating to the operation or control of motor vehicles other than a parking violation, for which the punishment is a fine or forfeiture not exceeding the sum of one hundred dollars and does not include a sentence of imprisonment. Judgment shall be entered against any person filing such waiver of trial and plea of guilty. Such waivers and pleas shall be made in writing on forms which shall be established by the chief justice of the municipal court of the city of Boston for said court and by the chief justice of the district courts for all other district courts. Such forms shall also contain information for the use of probation officers and instructions to offenders as to procedure under this section.

Fines under this section shall be in accordance with a schedule of fines which shall be established by the chief justice of the municipal court of the city of Boston for said court, and by the senior justice of each other district court, with the approval of the chief justice of the district courts, for each such other district court. A copy of such schedule of fines shall be so posted as to be plainly visible to the public in the office of the clerk of each district court. The fines listed on said schedule shall not exceed the maximum fines established by law for the particular type of violation.

No such waiver, plea, and payment of fine shall be accepted under this section unless made (a) before said clerk either personally or by an agent duly authorized in writing, or (b) by mailing to such clerk payment by postal note, money order, or check made out to the clerk of the court.

This section shall not apply to any person who has been summoned for failure to properly return a parking violation notice in accordance with section 12-401 or section 12-402 of chapter eighty-one-K, nor to any person who has been previously convicted, within a period of twelve months, of the violation of any law relating to the operation or control of motor vehicles nor, without special permission of the chief justice of the municipal court of the city of Boston or the senior justice of each other district court, as the case may be, to any complaint wherein the court has issued a warrant for failure of the defendant to appear on a summons, properly served, nor to any delinquent child as described in section 1-110.

Section 1-106. Nothing in sections 1-101 to 1-108, inclusive, shall be construed to supersede the powers and duties of the registrar as provided elsewhere in this chapter or in chapters eighty-one-J to eighty-one-L, inclusive.

Section 1-107. It shall be unlawful and official misconduct to dispose of a citation or copies thereof or of the record of the issuance of a citation in a manner other than as required in this chapter.

Section 1-108. Whoever knowingly falsifies a citation or copies thereof or a record of the issuance of same, or disposes of such citation, copy, or record, in a manner other than as required in this chapter, or attempts so to falsify or dispose, or attempts to incite or procure another so to falsify or dispose, shall be punished by a fine of not more than five hundred dollars or imprisonment for not more than one year, or both.

Section 1-109. A full record shall be kept by every court of every case in which a person is charged with an automobile law violation. An abstract or such record shall be sent forthwith by the court to the registrar. Said abstracts shall be made upon forms prepared by the registrar, and shall include all necessary information as to the parties to the case, the nature of the offense, the date of the hearing, the plea, the judgment and the result; and every such abstract shall be certified by the clerk of the court as a true abstract of the record of the court. The registrar shall keep such records in his main office. Courts shall, upon their own initiative or upon the request of the registrar or his agents, furnish to the registrar the details of all particularly flagrant cases which may be heard before them; and they may make such recommendations to the registrar as to the suspension or revocation of the licenses and certificates of registration of the defendants in such cases as they may deem necessary.

Section 1-110. If, under the provisions of section fifty-eight of chapter one hundred and nineteen, a child is adjudged a delinquent child by reason of having violated any statute, rule regulation, order, ordinance or by-law relating to the operation of motor vehicles, the court may place the case on file, or may place the child in the care of a probation officer, or may commit him to the custody of the youth service board, as provided in section fifty-eight of said chapter, and may require restitution as provided in section sixty-two thereof; and in addition to or in lieu of such disposition, the court may impose upon such child a fine not exceeding the amount of the fine authorized for the violation of such statute, rule, regulation, order, ordinance or by-law. Any fine imposed under the authority of this section shall be collected, recovered and paid over in the manner provided by chapters two hundred and seventy-nine and two hundred and eighty; provided, that if any child shall neglect, fail or refuse to pay a fine imposed under this section, he may be arrested upon order of the court and brought before the court, which may thereupon place him in the care of a probation officer or commit him to the custody of the youth service board; but no such child shall be committed to any jail, house of correction, or correctional institution of the commonwealth. The provisions of sections sixty and sixty A of said chapter one hundred and nineteen shall apply to any case disposed of under this section; provided, that the court shall provide the registrar with an abstract of every such adjudication and disposition, in the manner provided by section 1-109; and provided further, that such adjudication and disposition shall be admissible as evidence in any proceeding for the revocation or restoration of the child's license to operate a motor vehicle and for the cancellation of a motor vehicle insurance policy covering the vehicle operated by such child, and in any action of tort arising out of the negligent operation of a motor vehicle by said child, to the same extent that such evidence would be admissible if said child were an adult.

ARTICLE 2. CIVIL PROCEEDINGS

Part 1. Service of Process

Section 2-101. Any one of the following acts shall be deemed equivalent to an appointment of the registrar or his successor in office by the person described below to be his true and lawful attorney upon whom may be served all lawful

processes in any action or proceeding against such person, his executor or administrator, growing out of any accident or collision in which such person or his agent may be involved while operating a motor vehicle or trailer in the area described:

(1) the application for and issuance of either a license to operate motor vehicles or a certificate of registration for a motor vehicle or trailer; provided, that the accident or collision occurred while the applicant or his agent was operating a motor vehicle within the commonwealth during the period covered by such license or certificate;

(2) the operation by any person or his agent, whether with or without a license, of any motor vehicle or trailer, whether registered or unregistered, on any public or service way, or any private way dedicated to public use, or any other private way if entrance thereto was made from a public or service way or a private way dedicated to public use, or in any place to which the public has a right of access, within the commonwealth; provided, that this subdivision shall not apply to any person described in subdivision (1) above, or to any foreign corporation which has executed a power of attorney under section three of chapter one hundred and eighty-one.

Section 2-102. Any one of the acts described in section 2-101 shall be a signification of an agreement by any person referred to therein that any process against him, his executor or administrator shall have the same legal force and validity as if served upon him personally, provided that it is served as follows:

(1) In a case arising under subdivision (1) of section 2-101 service of process shall be made by leaving duplicate copies thereof with a fee of two dollars in the office of the registrar, and the registrar shall forthwith send one of said copies by mail, postage prepaid, addressed to the defendant at his last address as appearing on the registrar's records; and an affidavit of the registrar, or of any person authorized by him to send such copy, that such copy has been so mailed shall be *prima facie* evidence thereof. One of the duplicates of such process, certified by the registrar as having been served upon him, shall be sufficient evidence of service upon him under said power of attorney. The mailing by the registrar of a copy of such process to the defendant at his last address as appearing on the registrar's records shall be sufficient notice to him of such service.

(2) In a case arising under subdivision (2) of section 2-101 service of process shall be made by leaving a copy of the process with a fee of two dollars in the office of the registrar and by giving the defendant notice by either one of the following methods:

(a) If the defendant is known by the plaintiff to be the holder of a motor vehicle registration or operator's license issued by another state or country, notice of such service upon the registrar and a copy of the process shall forthwith be sent by registered mail, with return receipt requested, by the plaintiff to the defendant at his address of record in the office from which such registration or license was issued. The plaintiff's affidavit of compliance herewith, and the defendant's return receipt, if received by the plaintiff, shall be filed in the case on or before the return day of the process or within such further time as the court may allow. If the defendant has no motor vehicle registration or license known to the plaintiff, such notice and copy shall be sent in the same manner to the last address of the defendant known to the plaintiff. Such affidavit of compliance and the defendant's return receipt or other proof of actual notice shall be filed in the case within the time provided above.

(b) Notice of such service upon the registrar and a copy of the process shall be served upon the defendant, if found within the commonwealth, by a sheriff or deputy sheriff of any county of this commonwealth or, if found without the commonwealth, by any duly constituted public officer qualified to serve like process in the state or jurisdiction where the defendant is found, and the officer's return showing such service to have been made shall be filed in the case on or before the return day of the process or within such further time as the court may allow.

Section 2-103. The fee of two dollars paid by the plaintiff under section 2-102 to the registrar at the time of service shall be taxed in his costs if he prevails in the action or proceeding. The registrar shall keep a record of all processes served upon him under said section, which shall show the day and hour of service.

Part 2. Venue and Removal

Section 2-201. The venue of an action of tort arising out of the ownership, operation, maintenance, control or use of a motor vehicle or trailer shall be governed by the provisions of section twenty-one of chapter two hundred and eighteen, and sections one to two B, inclusive, five to eight, inclusive, nine, eleven, thirteen and fifteen of chapter two hundred and twenty-three.

Section 2-202. Notwithstanding the provisions of sections one hundred and four and one hundred and six of chapter two hundred and thirty-one, no bond or deposit shall be required of a defendant in an action of tort arising out of the ownership, operation, maintenance, control or use of a motor vehicle or trailer if the payment of any judgment for costs which may be entered against him is secured, in whole or in part, by a motor vehicle liability bond or policy, or a deposit as provided in section 4-401 of chapter eighty-one-J.

Part 3. Proof of Liability and Defenses Thereto

Section 2-301. In any action to recover for damage to a motor vehicle brought in the name of a person or persons holding a security interest in said motor vehicle, any defense which would be available as against any registered owner thereof shall be available as against the person or persons holding said security interest.

Section 2-302. In any action to recover the consequential damages specified in section 4-101 of chapter eighty-one-J or damages for injuries to the person or property or for death arising out of an accident or collision in which a motor vehicle or trailer was involved, evidence that at the time of such accident or collision said vehicle was registered in the name of the defendant as owner shall be prima facie evidence that it was then being operated by and under the control of a person for whose conduct the defendant was legally responsible, and absence of such responsibility shall be an affirmative defense to be set up in the answer and proved by the defendant.

Section 2-303. In any suit in equity under section 4-308 of chapter eighty-one-J and clause (10) of section three of chapter two hundred and fourteen to reach and apply the proceeds of any motor vehicle liability policy, as defined in section 4-101 of chapter eighty-one-J, by a judgment creditor in any action to recover damages for bodily injuries, including death at any time resulting therefrom, or the consequential damages specified in said section 4-101, arising out of an accident or collision in which a motor vehicle or trailer was involved, and in any action under section 4-309 of said chapter eighty-one-J on a motor vehicle liability bond, as defined in said section 4-101, it shall be presumed that at the time of such accident or collision such vehicle was being operated, maintained, controlled or used with the express or implied consent of the named person insured in such policy or the principal of such bond, and the absence of such consent shall be an affirmative defense to be set up in the answer and proved by the defendant.

Section 2-304. In any action to recover consequential damages referred to in section 2-302 or damages for injuries to the person or property or for death arising out of an accident or collision in which a motor vehicle or trailer was involved, a judgment entered by agreement of the parties, without a hearing on the merits, shall not operate as a bar to an action brought by a defendant in the action in which such judgment was entered, unless such agreement was signed by the defendant in person.

Section 2-305. In any action to recover consequential damages referred to in section 2-302 or damages to the person or property or for death arising out of an accident or collision in which a motor vehicle or trailer was involved, a violation of any statute, rule, regulation, order, ordinance or by-law by either party shall not require a finding for either party, but shall be some evidence of negligence if there is a causal connection between such violation and such accident or collision.

Part 4. Assessment of Damages and Satisfaction of Judgment

Section 2-401. Damages shall not be assessed, except by special order of the court, in an action of tort, the payment of the judgment wherein is secured by a motor vehicle liability policy or a motor vehicle liability bond, both as defined in section 4-101 of chapter eighty-one-J, and wherein the defendant has been defaulted for failure to enter an appearance, until the

expiration of four days after the plaintiff has given notice of such default to the company issuing or executing such policy or bond, and has filed an affidavit thereof. Such notice may be given by mailing the same, postage prepaid, to the said company or to its agent who issued or executed such policy or bond.

Section 2-402. A judgment the payment of which is secured in accordance with sections 4-101 to 4-501, inclusive, of chapter eighty-one-J shall be satisfied in accordance with said sections.

Section 2-403. The registrar, if he is satisfied by such evidence as he may require that the defendant in an action brought in the commonwealth to recover damages for injury to property arising out of the use, operation or maintenance on any public or service way, or any private way dedicated to public use, within the commonwealth, of a motor vehicle or trailer has failed, for sixty days after the rendition thereof, to satisfy in full a judgment against him in such action, shall suspend any license to operate motor vehicles issued to him under chapter eighty-one-J, or his right to operate such vehicles or, if the defendant is a corporation, a partnership, a trust or a voluntary association, shall suspend all certificates of registration issued to it under said chapter; and the registrar shall not terminate any such suspension, or renew or issue any such license to any such person, or renew or issue such certificates of registration to such corporation, partnership, trust or voluntary association until he is satisfied as aforesaid that said judgment has been fully satisfied or that the judgment creditor has released or discharged the judgment debt.

This section shall not apply in any case if the registrar is satisfied as aforesaid that the defendant was, at the time such injury occurred, insured against loss or damage on account of his legal liability for such injury by or under a policy of insurance issued by an insurance company duly authorized to transact business in the commonwealth under chapter one hundred and seventy-five, to the amount or limit of at least five thousand dollars and that such company, at the time such judgment was rendered, remained liable thereunder; nor shall this section apply in the case of a judgment rendered in an action brought to recover damages for death or bodily injuries as well as damages for such injury to property, unless a separate finding or verdict for such property damages has been entered or returned in such action, in which case the amount of damages so awarded shall, for the purposes of this section, be deemed the amount of the judgment.

If a judgment debtor satisfies the clerk of the court in which the judgment was obtained that said judgment debtor is unable to locate the judgment creditor or his legal representative, he may deposit with such clerk the full amount of the execution with interest and said clerk shall give to him a receipt therefor reciting such facts. Upon presentation to the registrar, such receipt in full shall be evidence of satisfaction, release, or discharge of the judgment debt.

Part 5. Limitation of Actions

Section 2-501. Any action to recover damages for injuries to the person or for death in which the payment of judgment is required to be secured by chapter eighty-one-J, any action to recover damages for injuries to the person or property or for death against an officer or employee of the commonwealth or any political subdivision thereof arising out of the operation of any vehicle owned by the commonwealth or such political subdivision, any suit by a judgment creditor in any such action under section 4-308 of chapter eighty-one-J and clause (10) of section three of chapter two hundred and fourteen, and any suit on a motor vehicle liability bond under section 4-309 of chapter eighty-one-J shall be commenced only within two years next after the cause of action accrues.

For the purposes only of this section, an officer or soldier of the military forces of the commonwealth, as defined in chapter thirty-three, shall while performing any lawfully ordered military duty be deemed to be an officer or employee of the commonwealth.

Section 2-502. Any action to recover damages for injuries to the person or property or for death against the owner or operator of a motor vehicle, the operator of which failed to make himself or said owner known at the time of the accident or incident out of which such action arises may, notwithstanding any provisions of law relating to limitations of actions, be commenced within six months after the plaintiff learns the identity of the defendant, provided that written notice of the time, place and facts of said accident or incident is given by the person injured or by someone on his behalf to the police and to the registrar within thirty days after such accident or incident. It shall be sufficient notice if the time, place and fact of said accident or incident appear on the records of any police department, the registry of motor vehicles, any hospital or any other institution or person required by law to keep such records.

No action shall be brought under this section after the expiration of six years from the date on which said accident or incident occurred.

Section 2-503. If a person, liable to an action for death the payment of the judgment in which is required to be secured by chapter eighty-one-J, dies before the expiration of the time limited in section 2-501, or within thirty days after the expiration of said time, the action may be commenced against the executor or administrator subject to the pertinent limitations in chapter one hundred and ninety-seven, relative to the limitation of actions against the executor or administrator by creditors of the deceased.

P R O P O S E D H I G H W A Y C O D E

C H A P T E R 8 1 - N .

R A I L R O A D L O C A T I O N S A C R O S S W A Y S

(formerly Chapter 81-O)

1. $\frac{d}{dt} \left(\frac{1}{2} \rho \dot{r}^2 + \frac{1}{2} \rho r^2 \theta^2 + \frac{1}{2} \rho r^2 \phi^2 \right) = \frac{1}{2} \rho r^2 (\theta \dot{\theta} + \phi \dot{\phi})^2$
2. $\frac{d}{dt} \left(\frac{1}{2} \rho \dot{r}^2 + \frac{1}{2} \rho r^2 \theta^2 + \frac{1}{2} \rho r^2 \phi^2 \right) = \frac{1}{2} \rho r^2 (\theta \dot{\theta} + \phi \dot{\phi})^2$
3. $\frac{d}{dt} \left(\frac{1}{2} \rho \dot{r}^2 + \frac{1}{2} \rho r^2 \theta^2 + \frac{1}{2} \rho r^2 \phi^2 \right) = \frac{1}{2} \rho r^2 (\theta \dot{\theta} + \phi \dot{\phi})^2$

CHAPTER 81-N

RAILROAD LOCATIONS ACROSS WAYS

ARTICLE I. APPLICATION OF CHAPTER AND GENERAL REGULATORY POWERS

Part 1. Application of Chapter

Section 1-101. The establishment, relocation, construction, reconstruction, improvement, maintenance and use of any portion of a way crossed by the tracks of a railroad corporation shall be subject to the provisions of this chapter.

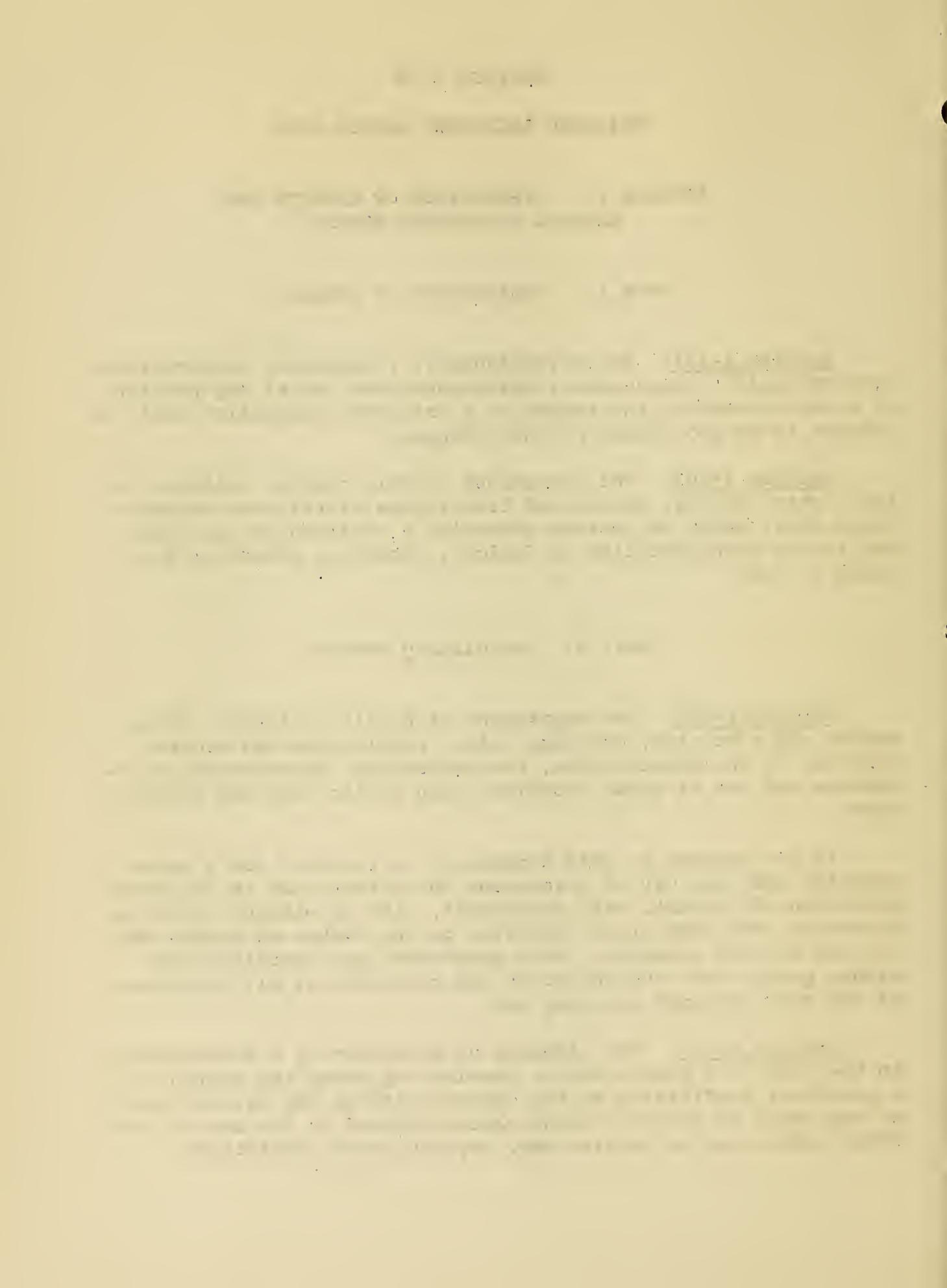
Section 1-102. The provisions of this chapter relative to the rights, powers, duties and liabilities of railroad corporations shall apply to persons operating a railroad for private use in the transportation of freight, except as otherwise provided by law.

Part 2. Regulatory Powers

Section 1-201. The department of public utilities, after notice and a hearing, may make rules, regulations and orders relative to the construction, reconstruction, improvement, maintenance and use of grade crossings upon public ways and service ways.

If the consent of said department is required for a grade crossing upon any way of a railroad for private use in the transportation of freight, said department, with or without notice or a hearing, may make orders relative to the number of tracks and the use of such crossing. Said department may exercise supervisory powers over the character and condition of all crossings of any such railroad upon any way.

Section 1-202. The aldermen or selectmen of a municipality in the case of a public way or service way under the control of a political subdivision of the commonwealth or any private way, or the board or officer having charge thereof in the case of any other public way or service way, may make such regulations



relative to the use of a crossing upon such way by the tracks of a railroad for private use in the transportation of freight, as in their judgment are required by public safety and convenience.

ARTICLE 2. ESTABLISHMENT, CONSTRUCTION AND MAINTENANCE OF CROSSINGS

Part 1. Establishment and Construction

Section 2-101. The map of the route of a railroad and report of the engineer prepared and submitted by the directors of a railroad corporation under sections eighteen and nineteen of chapter one hundred and sixty shall include the number of public ways and service ways to be crossed by its tracks and the manner of crossing the same.

Section 2-102. No railroad corporation shall purchase or take by eminent domain or enter upon or use, except for making surveys, any land or other property for the construction of its railroad or of any branch or extension thereof until the manner in which its tracks and related appurtenances shall cross any way on its route has been determined in accordance with this section. Such determination shall be made after hearing of the parties by the county commissioners in the case of a public way or service way under the control of a political subdivision of the commonwealth or any private way and by the board or officer having charge thereof in the case of any other way. Notice of such hearing shall be given by publication for three successive weeks in one or more newspapers having general circulation in the county wherein the crossing is located, the last publication to be at least seven days before the hearing.

No tracks or related appurtenances of a railroad for private use in the transportation of freight shall be constructed or installed across or upon any public way or service way under the control of a political subdivision, or any private way, without the consent of the aldermen or selectmen of the municipality wherein such way is located, or across or upon any other public way or service way without the consent of the board or officer

having charge thereof. No such crossing shall be constructed until the manner thereof has been determined by such aldermen, selectmen or other board or officer, as the case may be.

No determination under this section shall be effective to authorize a grade crossing upon a public way or service way without the consent of the department of public utilities.

Section 2-103. The county commissioners in the case of a public way or service way under the control of a political subdivision of the commonwealth, or the board or officer having charge thereof in the case of any other public way or service way, may authorize a railroad corporation to relocate, reconstruct or improve any such way to permit its tracks and related appurtenances to cross the same. Such authorization shall be contained in a decree, which shall prescribe the time and manner of any such relocation, reconstruction or improvement, and the structures which may be constructed and installed at the crossing and the time and manner of their construction and installation.

Before entering upon or excavating such way, the railroad corporation shall give security to the board or officer having charge of such way that it will faithfully comply with the requirements of the aforesaid decree to the acceptance of such board or officer, and that it will indemnify against all damages and charges by reason of any failure to do so. Such security shall be of a type and in an amount satisfactory to the board or officer issuing such decree.

If, upon the petition of the board or officer having charge of a public way or service way, it appears that said corporation has excavated, relocated, reconstructed or improved such way without obtaining the decree and giving the security required by this section, or has neglected for fifteen days to give security as required by section 2-106, the supreme judicial court may enjoin it from entering upon, excavating, relocating, reconstructing, improving or crossing the way until such decree has been obtained or such security given.

Section 2-104. The county commissioners in the case of a public way or service way under the control of a political subdivision of the commonwealth, or the board or officer having charge thereof in the case of any other public way or service way, upon the application of a railroad corporation whose tracks are to be constructed across such way or of the aldermen or selectmen

of the municipality wherein the proposed crossing is located, after notice to all persons interested and a hearing, may adjudge that public necessity and convenience required a grade crossing, and may, if the department of public utilities also consents in writing to such grade crossing, issue a decree specially to authorize and require said corporation to construct such crossings, in such manner as shall be prescribed in the decree.

Said commissioners or other board or officer may modify or revoke any such decree at any time before the construction of such crossing.

Section 2-105. Except where a grade crossing is authorized, the tracks of a railroad corporation across a public way or service way shall be constructed and installed in the manner herein-after provided.

If such tracks pass over the way, a sufficient space shall be left under them conveniently to accommodate travel upon the way.

If such tracks pass under the way, said corporation shall construct such bridges, with their abutments and suitable approaches thereto as will accommodate travel upon the way. No such bridge shall be constructed within the limits of a railroad yard at a height less than twenty-two and one half feet above such tracks, except as otherwise provided in section one hundred and thirty-four A of chapter one hundred and sixty. No such bridge shall be constructed in any other location at a height less than eighteen feet above such tracks except with the written consent of the department of public utilities.

The county commissioners in the case of a public way or service way under the control of a political subdivision of the commonwealth, or the board or officer having charge thereof in the case of any other public way or service way, may make agreements with said corporation in regard to the kind of material, form of construction and payment of the cost of the wearing surface of bridges and approaches over or under any such way, wherever said corporation is required by law to maintain such surface.

All such bridges and underpasses, with their approaches and abutments, shall be constructed by said corporation at its own expense.

Section 2-106. The construction and installation of any tracks and related appurtenances of a railroad across any way shall be in accordance with any order or decree issued under sections 2-102 to 2-105, inclusive, and, in the case of a public or service way, shall be so performed as not unnecessarily to obstruct such way.

If the tracks or related appurtenances of any such corporation cross a public way or service way under the control of a political subdivision of the commonwealth in violation of this section, application may be made to the county commissioners by the aldermen or selectmen wherein the crossing is located for a decree relative thereto, and the proceedings therefor shall be in accordance with section 2-202, including the giving of security for compliance with the requirements of said decree.

Part 2. Maintenance

Section 2-201. Any bridge or underpass and its approaches and abutments, constructed by a railroad corporation over or under a public way or service way as provided in section 2-105 shall be maintained by said corporation at its own expense.

Section 2-202. The bridges of every railroad corporation and of the Massachusetts bay transportation authority over ways, and the approaches thereto, upon the request of the department of public utilities and at least once in every two-year period, shall be examined, and the results of such examination shall be reported to said department, by said corporation or authority, as the case may be, in accordance with section eighty-three of chapter one hundred and fifty-nine.

Section 2-203. If the board or officer having charge of a public way or service way crossed by a bridge of a railroad corporation, or the county commissioners of the county or aldermen or selectmen of the municipality wherein such bridge is located in whole or in part, or the directors of said corporation, are of the opinion that such bridge is in need of maintenance, they may apply to the department of public utilities. Said department shall, after public notice, hear all persons interested, and, if it decides that maintenance is necessary, shall prescribe the manner in and the limits within which it shall be performed, and shall forthwith certify its decision to the parties.

If railroad corporations, or political subdivisions of the commonwealth, or any of them, jointly or severally, are charged with the duty of maintaining or repairing any such bridge under any provision of law, agreement, or decree of court, and if the parties so charged with such duty refuse or neglect to carry into effect such decision within a reasonable time, any other such party may apply to the superior court, which may in equity enforce such decision.

Section 2-204. If the county commissioners determine that a railroad corporation has refused or neglected to maintain a bridge or other structure required or necessary at a crossing of its tracks and a public way or service way under the control of a political subdivision of the commonwealth, said commissioners may issue a decree prescribing the maintenance to be performed by said corporation at said crossing and the time within which it shall be performed. Such determination shall be made upon application of the aldermen or selectmen of the municipality wherein such crossing is located, and only after notice to said corporation and a hearing.

A commission of three disinterested persons, appointed as provided in section 3-206, shall determine which party shall carry such decision into effect and which party shall pay the expenses of performing such maintenance and the future charges for maintaining such crossing and the approaches thereto, as well as the costs of the application to the county commissioners, or the department of public utilities, and of the hearing before said commission; and it may apportion all such expenses and costs between said corporation, and the counties and municipalities where such crossing is located and other municipalities which may be specially benefited; provided, that the parties in interest may waive the appointment of the commission and determine the foregoing by written agreement to be filed in the proceeding.

The county commissioners may further order said corporation to give security, as provided in section 2-103, for the faithful performance of the requirements of the decree and for the indemnity of the municipality upon a failure in such performance.

Part 3. Liability for Non-Compliance

Section 2-301. The commonwealth or any political subdivision thereof may recover all damages sustained and expenses incurred by reason of the neglect or refusal of a railroad corporation to construct, install or maintain all structures required or necessary at a crossing of a public way or service way by the tracks of said corporation.

ARTICLE 3. ALTERATION AND ABOLITION OF CROSSINGS

Part 1. Definitions and Application of Article

Section 3-101. The following terms used in sections 3-102 to 3-401, inclusive, shall have the following meanings for the purposes of said sections except where a different meaning is clearly apparent from the language or context or such construction is inconsistent with the manifest intention of the legislature:

"Abolition of a grade crossing," the elimination of a grade crossing either with or without the substitution of a bridge or underpass therefor.

"Alteration of a crossing," any alteration in the crossing of the tracks of a railroad corporation and a way, or in the approaches to or a bridge or underpass at such crossing, including the relocation, reconstruction or improvement of such bridge, tracks or way, and including the substitution of a grade crossing for any such bridge or underpass, but not including any abolition of a grade crossing as herein-before defined.

Section 3-102. Proceedings for the alteration of a crossing shall be in accordance with sections 3-201 to 3-207, inclusive, 3-401 and 3-402. Proceedings for the abolition of a grade crossing shall be in accordance with sections 3-301 to 3-402, inclusive, but shall not be subject to any provision of sections 3-201 to 3-207, inclusive, or of section two hundred and fifty-two of chapter one hundred and sixty.

Section 3-103. Notwithstanding any other provision of this chapter, the board or officer consenting to the construction of tracks and related appurtenances of a railroad for private use in the transportation of freight across or upon any way, may order such changes in the tracks thereof as are rendered necessary by the relocation, reconstruction, improvement or maintenance of such way.

Part 2. Orders for the Alteration of Crossings

Section 3-201. The directors of a railroad corporation having tracks which cross a public way or service way under the control of a political subdivision of the commonwealth, or, if the Massachusetts bay transportation authority has tracks in such way, the trustees of said authority, or the board or officer having charge of such way, if they deem it necessary for the security or convenience of the public that there be an alteration of the crossing, may apply to the county commissioners for such alteration; provided, that if such crossing is located in whole or in part in the city of Boston, such application shall be made to the department of public utilities; and provided further, that if such crossing or its approaches are in direct continuation of a state highway or a metropolitan way, it shall be treated for purposes of this section as a state highway or metropolitan way, as the case may be. Said commissioners or department shall, after public notice, hear all interested parties, and, if it decides that such alteration is necessary, shall order the same and prescribe the manner and limits in which it shall be made.

A state agency having control of a public way or service way crossed by the tracks of a railroad corporation, if it deems it necessary for the security or convenience of the public that there be an alteration of the crossing after public notice and a hearing of all interested parties, shall order the same and prescribe the manner and limits in which it shall be made. Any hearing under this paragraph shall be held in the county where such crossing is located. A copy of any decision under this paragraph and of the plan of said alteration shall be filed in the office of the county commissioners of said county.

Section 3-202. Any party aggrieved by a decision or order of the county commissioners or of any state agency under section 3-201, or by their unreasonable refusal or neglect to announce a decision in any such matter or proceeding for sixty days after the first day fixed for a hearing thereon, may appeal to the department of public utilities by filing a notice of appeal with said county commissioners or state agency, as the case may be, within ten days after the decision or order appealed from, or in case of a refusal or neglect to announce a decision, within ten days after the expiration of sixty days from the first day fixed for a hearing thereon. The proceedings from which the appeal is taken shall thereupon be stayed.

Before any such appeal is perfected, the appellant shall, within twenty days after filing the notice thereof, file with the secretary of the department of public utilities a petition stating the reasons for the appeal, and shall, within ten days after filing said petition, cause a certified copy thereof to be served upon the county commissioners or state agency from which such appeal is taken. An appeal may be waived at any time before a hearing thereon by written agreement of the parties, filed with said county commissioners or state agency and with the department of public utilities. If the appellant fails to perfect the appeal, or if the appeal is waived, the matter may proceed as if no appeal had been taken.

Section 3-203. The department of public utilities shall hear any appeal brought under section 3-202 in the county where it is taken, unless otherwise agreed in writing by the parties. Upon such appeal, said department shall have the same powers and perform the same duties as county commissioners in like matters and proceedings, and shall be governed by the provisions of law relative to hearings and determinations by, and decisions and orders of, the county commissioners in such matters and proceedings.

Section 3-204. If it is decided in any proceeding for the alteration of a crossing that the tracks or way involved therein shall be relocated, land or other property may be taken therefor by eminent domain on behalf of the railroad corporation, the commonwealth or the political subdivision thereof, as the case may be, under chapter seventy-nine.

Section 3-205. A commission of three disinterested persons shall determine who shall carry out any decision relative to the alteration of a crossing, and who shall pay the expenses of making such alteration and of maintaining the crossing and approaches thereto, as well as the costs of the application for such alteration and the hearing before said commission; and it may apportion all such expenses and costs between the railroad corporation and the counties and municipalities wherein such crossing is located and other municipalities which may be specially benefitted; and if such crossing and its approaches are in direct continuation or a part of a way under the control of any state agency, the commonwealth may be included in such apportionment. If the Massachusetts bay transportation authority is authorized to construct, install and use tracks upon any bridge in a highway which, or the approaches to which, are relocated, reconstructed or improved in connection with the alteration of a crossing under this chapter, said commission shall determine what part of the expenses of such relocation, reconstruction or improvement, or of the maintenance of such crossing and the approaches thereto, shall be paid by said authority.

Any determination or apportionment of expenses or costs under this section shall be made equitably and in accordance with the relative benefits to be derived by each party from such alteration.

The parties in interest may waive the appointment of such commission and determine the foregoing by written agreement. Any such agreement shall be filed in the proceeding for such alteration.

Section 3-206. Unless the parties agree as provided in section 3-205, any such party may apply to the superior court for the appointment of the commission described in said section. Said court shall cause notice thereof to be given to the other parties interested fourteen days at least before the time fixed for the hearing; and thereupon, after hearing, shall appoint such commission, one member of which shall be a member of and designated by the department of public utilities. Such commission shall meet as soon as may be after its appointment, and, after notice to and a hearing of the parties, shall make a written award and return it to said court.

A party aggrieved by said award may, within fourteen days after the return thereof, apply to said court for a jury to revise and determine any matter of fact found therein; and thereupon the court, after notice to all parties interested, shall order a trial by jury in the same manner as civil cases are tried by a jury. The decree

of the court upon said award or upon the verdict of a jury, or upon agreement of the parties filed in said court, shall be final and binding, and said court may in equity enforce compliance therewith, and also issue and enforce such interlocutory decrees and orders as justice may require.

Section 3-207. Any party to a proceeding under this chapter for the alteration of a crossing who is designated to carry out the decision made under section 3-201 and carries out the same may recover in contract from any other party the proportion awarded to be paid by such other party, with interest. If the party so designated unreasonably fails to carry out such decision, any other party affected by such failure may proceed to carry out such decision, and may recover in contract from each or all of the others the proportion awarded to be paid by them, and from the party so failing all expenses and costs occasioned thereby.

Part 3. Orders for the Abolition of Grade Crossings

Section 3-301. The department of public works shall consider the abolition of grade crossings in the sequence indicated by the program orders as adopted and amended by the department of public utilities under section 3-106 of chapter eighty-one-3, and shall hold public hearings on each such abolition, due notice of which shall be given to such railroad corporations, state agencies and political subdivisions of the commonwealth as may be required by law to bear part of the cost of such abolition. After such hearing said department shall by order determine the manner and limits of such abolition, what part, if any, of an existing way shall be closed, and whether or not a new way shall be substituted therefor, the grade for the tracks and the way, the general method of construction, and what land or other property it considers necessary to be taken, including, in its discretion, a slope easement appurtenant to such way or such tracks; provided, that so much of any such order as relates to the foregoing shall not be effective unless the consent of the department of public utilities thereto shall first be obtained, but no consent shall be given by said department to an order requiring a change in the grade of any tracks until the corporation owning the same, if it so requests, has been given an opportunity to be heard before said department on the sole question of such change. The department of public works shall determine in such order when the work shall be commenced, who shall do the work and how much shall be done by each. All such work not done in whole or in part by the department of public works shall be done under its general supervision.

Section 3-302. Except as otherwise provided in sections 3-301 and 3-401, the total cost of the abolition of a grade crossing, including the total cost of construction, all damages on account thereof and all moneys allotted under the provisions of any federal statutes and enabling state legislation for expenditure on such abolitions from funds designated by the federal authorities exclusively for grade crossing abolitions, shall be apportioned, by a board of five members constituted as hereinafter provided, among the railroad corporations affected, the commonwealth and the political subdivisions thereof wherein such crossing is situated, equitably and in accordance with the relative benefit to be derived by each from such abolitions; provided, that if in any case funds sufficient to cover the said total cost are allotted as aforesaid under the provisions of any such federal statutes and enabling state legislation, no such apportionment shall be made; and, provided further, that any of said parties aggrieved by said apportionment may petition the supreme judicial court, which shall appoint three commissioners to make such apportionment, subject to the approval of the court. Said board shall consist of the attorney general, the chairman of the commission having supervision and control of the department of public utilities and another member of said commission designated by said chairman, and the commissioner of public works and one of his associate commissioners designated by said commissioner. If the crossing so abolished is upon a private way, and no crossing upon a public way or service way is abolished in connection therewith, the total cost as aforesaid shall be paid by the parties affected by the abolition in such proportion as the department of public works may establish. Said department may require the railroad corporation or corporations and the state agencies and political subdivisions of the commonwealth affected by any such grade crossing abolition, or any of them, to cause to be prepared and submitted to it plans, specifications and estimates of the cost of such abolition.

Section 3-303. A copy of any order issued under sections 3-301 and 3-302, after the consent thereto by the department of public utilities to the extent required in said sections, shall be filed in the offices of the department of public works and of the department of public utilities, and a copy thereof shall be served on the state comptroller, and upon any railroad corporation, state agency and political subdivision of the commonwealth affected by such abolition. The department of public works shall include in

its budget estimate in each year a sum sufficient to meet the cost of such portion of any abolition or abolitions of grade crossings to be undertaken during the following year as is to be paid by the commonwealth and political subdivisions thereof.

Section 3-304. Any order issued under section 3-301 which requires the relocation of any tracks or any way shall designate the new location thereof. If it is necessary to acquire any interest in land therefor, the department of public works shall take the same by eminent domain under chapter seventy-nine and the order of taking shall be included in the order of abolition. Said taking shall be made on behalf of the commonwealth or political subdivision, as the case may be, if such interest in land is to be used for or in connection with a public way or service way, or on behalf of the railroad corporation if such interest in land is to be used for or in connection with a private way or by said corporation.

Section 3-305. The department of public works may in any order for the abolition of a grade crossing, or from time to time thereafter with the approval of the department of public utilities, order the removal or relocation of any conduits, pipes, wires, poles or other property located in public ways and service ways or in public places which it deems to interfere with any such abolition or the work or works required therefor, and may grant new locations for any such property so removed or relocated. Such orders, to the extent specified therein, shall be deemed a revocation of the right or license to maintain such conduits, pipes, wires, poles or other property in such ways or places, and the owner of any such property shall comply with said orders without expense to the commonwealth or to any party which said department of public works has determined shall do the whole or any part of the work. If any such owner shall fail to comply with the order of the department of public works within a reasonable time, to be fixed in the order, said department may remove such conduits, pipes, wires, poles or other property or may relocate the same, and the cost of such removal or relocation shall be repaid by the owner, and if not repaid may be recovered by the commonwealth in an action of contract. No such removal or relocation shall entitle the owner of the property thus affected to any damages on account thereof. Any property in or upon private lands may be removed and relocated by the department of public works as a part of the cost of the abolition, or if removed and relocated by the owner thereof the reasonable expense shall be paid to him by the commonwealth as a part of the cost of the abolition. If any order hereunder or under said section

3-301 any location shall be changed, such order, when a copy thereof is filed with the department of public utilities, shall establish the location as thus changed.

Section 3-306. Whenever a grade crossing is abolished upon a public highway, said highway shall be so constructed or reconstructed as to provide a clear view in each direction for at least one hundred and fifty feet from the center of said highway where the same passes over or under the tracks of a railroad corporation, except when compliance with said requirement is deemed by the department of public works to be unnecessary and unreasonable under all circumstances.

Section 3-307. All damages sustained by any person in his property by the taking of land for or by the construction, reconstruction or improvement of a way, or by an abutter thereon by the closing of a public way, to the same extent as damages are recoverable by abutters on ways closed by municipalities, or by the taking of an easement in land adjoining a public way, shall primarily be paid by the commonwealth or political subdivision thereof, as the case may be, having control of such way. All damages caused by the taking of land for the railroad corporation or by the construction, reconstruction, improvement or closing of a private way, or by the taking of an easement in land adjoining a private way or a railroad location, shall primarily be paid by the railroad corporation. Any amount paid as damages primarily liable therefor shall be subject to investigation by the department of public works, unless such settlements are asserted to in writing by all parties in the proceeding. If the parties interested cannot agree upon said damages, any party may have the damages determined under chapter seventy-nine. All expense resulting from the necessary relocating or changing of streams and watercourses forming the natural drainage channels of the territory where alterations of grades are authorized, and of sewers, drains and pipes therein owned and operated by a municipality, shall be primarily paid by said municipality, and shall be a part of the actual cost of the abolition specified in section 3-302. . .

Where any person sustaining damage to his property in the manner hereinbefore specified fails to bring a petition within the time limited by chapter seventy-nine, the attorney general may join with the other parties interested in a settlement of the claim of such person. The proportion of the amount agreed upon in settlement thereof which would be chargeable to the commonwealth or to any political subdivision thereof under section 3-302 shall be paid as if it were a part of the actual cost of the work required to be done under said section.

Section 3-308. After the completion of the work involved in the abolition of a grade crossing, the expense of maintenance shall be paid as follows: if a public or service way crosses the tracks by an overhead bridge, the superstructure and subflooring of the bridge and its abutments or other supports shall be maintained by the railroad corporation, but the approaches of the bridge and the pavement or wearing surface over the subflooring shall be maintained by the commonwealth in the case of a way under its control, or by the municipality wherein such way is located in the case of a way under the control of a political subdivision of the commonwealth; if a public way or service way passes under the tracks, the bridge and its abutments or supports shall be maintained by the railroad corporation, and the way and its approaches shall be maintained by the commonwealth or municipality as hereinbefore provided; if the tracks of two or more railroad corporations cross a public way or service way at or near a given point, the department of public works shall apportion and award in what manner and proportion each of said railroad corporations shall maintain the superstructure and subflooring of the bridge and its abutments or supports if the way crosses the tracks by an overhead bridge, and the bridge and its abutments or supports if the way passes under said tracks.

Section 3-309. All accounts of expense incurred by any railroad corporation or municipality under sections 3-201 to 3-208, inclusive, shall from time to time be submitted to the department of public works, which shall audit the same, including any expense incurred by the commonwealth for or in connection with a way under its control, and report thereon to the state comptroller. Said department shall upon request of any of the parties to the proceeding under said sections investigate the amounts presented for allowance by the commonwealth or any such municipality or railroad corporation as expended in the payment of damages for land taken or affected by reason of the proposed abolition, which have been paid by the party primarily liable therefor, as provided in section 3-307, unless it appears that all the parties to the proceeding for the abolition of the grade crossing have assented in writing to the payment or settlement so made by the party primarily liable; and if said department determines that the amount so paid is in excess of what in its opinion should have been properly paid therefor, it shall allow only such portion of the amount so paid as it may deem to be just and reasonable. In case of any dispute as to the propriety or reasonableness of the whole or a part of any account of

expense, the department of public utilities, upon application of any party to the proceedings, shall determine the amount thereof, if any, to be allowed, and its determination shall be final. The department of public works shall, from time to time, issue its orders for payments on the part of each railroad corporation, not exceeding the amount apportioned to it by said department, and for the payment by the commonwealth of a sum not exceeding the amounts apportioned to it and to the county and municipality; and such county and municipality shall repay to the commonwealth the amount apportioned to it, with interest thereon at the rate of four per cent per annum in such instalments and at such times within ten years thereafter as said department, with the approval of the state comptroller, having regard to the financial condition of the county or municipality, shall determine.

Section 3-310. The superior court shall have jurisdiction in equity to enforce compliance with sections 3-301 to 3-309, inclusive, and with the orders and agreements made thereunder. The supreme judicial court shall have jurisdiction in equity to review, modify, amend or annul any order of the department of public works or the department of public utilities made under authority of said sections, but only to the extent of the unlawfulness of such order.

Section 3-311. For the purposes of sections 3-301 to 3-310, inclusive, any public way or part thereof which is in direct continuation of a state highway or metropolitan way for a distance of not more than one hundred feet from the end thereof shall be deemed a public way under the control of the commonwealth.

Part 4. Agreements for the Alteration or Abolition of Crossings

Section 3-401. The directors of a railroad corporation having tracks which cross a public way or service way under the control of a political subdivision of the commonwealth, and the aldermen or selectmen of the municipality wherein the crossing is located, if they deem it necessary for the security or convenience of the public that there be an alteration or abolition of such crossing, may execute a written agreement specifying

the following: the manner and limits within which such alteration or abolition shall be made; by which party the work shall be performed or how it shall be apportioned between them; the general method of construction, reconstruction or improvement; the grades of the tracks and way; the land or other property which must be taken; the portion, if any, of any way under the control of a political subdivision of the commonwealth to be closed; and how the cost thereof shall be apportioned between the parties. Such agreement shall be signed on behalf of the railroad corporation by the president thereof, authorized by its directors, and on behalf of the municipality by the mayor, authorized by the aldermen, or by the chairman of the selectmen, authorized by vote of the town.

Such agreement shall have the same force and effect as an order of the department of public works under section 3-301, if the department of public utilities, after notice to all parties interested by advertisement and a public hearing, approves of the alteration or abolition set forth in the agreement as necessary for the convenience and security of the public.

The department of public works, acting on behalf of the commonwealth, may, if in its judgment it seems advisable, join in such an agreement to abolish any grade crossing, thereby engaging the commonwealth to pay to the parties entitled thereto under the agreement, such amount as said department deems just, and such an agreement in which the commonwealth so joins shall have the same force and effect as an order of said department under said section 3-301, after approval as aforesaid by the department of public utilities.

If it is necessary to take any interest in land for the relocation of any tracks or way under such an agreement approved by the department of public utilities and filed in its office, the department of public works, in case of the abolition of a grade crossing to the cost of which the commonwealth is to contribute, otherwise the department of public utilities, shall take the same by eminent domain on behalf of the commonwealth, of the municipality, and of the railroad corporation, respectively, under chapter seventy-nine. Except as otherwise provided in this section, so much of section 3-304 as relates to the taking of land, and so much of section 3-307 as relates to the right of any person to recover damages sustained in consequence of such taking or of the work done in pursuance of an order shall apply to the taking of land and to damages sustained under an agreement made pursuant to this section. The crossing and approaches shall be maintained as provided in section 3-308, unless the parties agree otherwise.

If the agreement provides for the abolition of a grade crossing to the cost of which the commonwealth is to contribute, the department of public works shall keep itself informed of the progress and character of the work and of the amounts reasonably expended for work done or for damages, so far as rendered necessary for the abolition of the grade crossing; and for that purpose it may employ any necessary agents, and, from time to time, as it may consider proper, shall issue certified statements of the amount legally and properly expended for such abolition of a grade crossing. A county or other party which would be affected by the alteration or abolition of a crossing as aforesaid may join in any agreement under this section.

The superior court shall have jurisdiction in equity to enforce compliance with this section and with the agreements made thereunder.

ARTICLE 4. USE OF GRADE CROSSINGS

Part 1. Limitations on the Obstruction of Travel on Ways

Section 4-101. No railroad corporation shall wilfully or negligently obstruct or unnecessarily or unreasonably use or occupy a public way or service way.

No railroad corporation shall obstruct, use or occupy any such way with cars or locomotives for more than five minutes at any one time without good cause. If any such way has been obstructed, used or occupied with cars or locomotives for any longer period, said corporation shall not again use or occupy it with the cars or locomotives of a freight train, until a sufficient time, not less than three minutes, has been allowed for the passage through the crossing by such travelers as were ready and waiting to cross when the former occupation ceased.

Whoever violates any provision of this section shall be punished by a fine of one hundred dollars.

Section 4-102. Upon application to the department of public utilities, according to section twenty-four of chapter one hundred and fifty-nine, stating that a grade crossing upon a public way or service way is improperly used by a railroad corporation with its freight locomotives, freight cars or freight trains to the unreasonable inconvenience or danger of the public, said department, after notice, shall hear the parties; and, if public convenience or safety so requires, said department may direct that after a date to be fixed by it such railroad corporation shall not use such crossing or any part thereof for making up, connecting or disconnecting freight trains, or the locomotives or cars of such trains, or for the purpose of distributing freight or freight cars; and to prevent the same may prescribe such changes to be made in the construction of side tracks, branches and connections, in proximity to such crossings, and such regulations limiting the use of such crossings, as may be necessary. Said department may at any time modify its order after a hearing and for cause shown.

Part 2. Requirements as to Safety of Travel on Ways

Section 4-201. Orders of the department of public utilities under this chapter may require that a grade crossing be protected by gates, flagmen, flashing light signals or such other safeguards as said department determines are required by public security or convenience. The railroad corporation operating the tracks over the crossing shall install, maintain and operate such safeguards in compliance with such order.

The cost of installing, maintaining and operating such safeguards shall be apportioned by said department between said railroad corporation, the municipality wherein the crossing is located, the county, if the way is a county way, or the commonwealth, if the way is a state highway or metropolitan way, and any land in a limited and determinable area receiving benefit or advantage, other than the general advantage to the community, from such safeguards, and in accordance with the relative benefit to be derived by each from such safeguards, giving due consideration to whether the railroad or the way was first constructed, to the nature and volume of travel on the way, to the number of trains operated by the railroad over the crossing, and to all other relevant facts and circumstances. The provisions of this section shall not apply to the Massachusetts bay transportation authority or to any railroad or railroad corporation

operated under any contract with said authority. Any costs apportioned against land under this section shall be levied, assessed and collected in the same manner as a betterment under chapter eighty, so far as applicable.

Section 4-202. Any person who enters a railroad location at a private way protected by gates or bars shall close them securely. Whoever violates any provision of this section shall be punished by a fine of not less than twenty-five nor more than fifty dollars, and shall be liable for any damage resulting therefrom.

Section 4-203. Every railroad corporation having tracks at any grade crossing upon a public way or service way shall erect and maintain warning signs on each side of such crossing, of such form, size and description as the department of public utilities approves; provided, that if said department, upon petition, determines that any such sign is impracticable or unnecessary, it may release said corporation from compliance with this section.

Section 4-204. The department of public works, the metropolitan district commission, and every county and municipality shall erect and maintain warning signs at any grade crossing upon the public ways and service ways under their respective control, in accordance with the design and location requirements of the official standards of the department of public works; provided, that if said department or commission determines that any such sign upon a way under its control is impracticable or unnecessary, it shall not be required to erect or maintain the same; and provided further, that if the department of public utilities, upon petition, determines that any such sign upon a way under the control of a county or municipality is impracticable or unnecessary, it may release such county or municipality from compliance with this section.

Notwithstanding any other provision of this section, every such sign maintained on August third, nineteen hundred and sixty-four by the department of public works, the metropolitan district commission, or any county or municipality, may continue to be so maintained until such time as replacement, due to deterioration, is made necessary; provided, that at any time the department of public utilities may, after notice and hearing, by order require that said signs shall comply with the foregoing provisions of this section.

Section 4-205. Every railroad corporation shall, within four months after receiving a written request therefor, furnish to the department of public works, the metropolitan district commission or any county or municipality, as the case may be, a sufficient number of such warning signs to enable such department, commission, county or municipality, from time to time to comply with section 4-204. Said signs shall be furnished as aforesaid without charge, unless they are to be used for replacement purposes, in which case the railroad corporation may require the payment of the net cost thereof.

Section 4-206. Any county or municipality which neglects for sixty days to comply with the requirements of section 4-204, unless released therefrom by order of the department of public utilities, or unless prevented by the failure of any railroad corporation to comply with the requirements of section 4-205, or any railroad corporation which neglects for sixty days after the expiration of the four months prescribed in section 4-205 to comply with the requirements thereof, shall forfeit ten dollars for each day during which such neglect continues, to be recovered in an action of tort brought in the name and for the use of the commonwealth by the attorney general or by the district attorney of the district wherein the violation occurred.

Section 4-207. The aldermen or selectmen of a municipality, if they determine that warning signs at a grade crossing upon a private way within the limits of such municipality are necessary for the better security of the public, may in writing request the railroad corporation owning such tracks to erect and maintain such signs in the manner provided by section 4-203. If said corporation refuses or neglects to do so, such aldermen or selectmen may apply therefor to the department of public utilities. If said department, after public notice and a hearing, decides that such erection is necessary for the better security of the public, the corporation shall comply with such decision.

Section 4-208. The bell of each locomotive of a railroad corporation shall be rung or at least three separate and distinct blasts of its whistle sounded at the distance of at least one quarter of a mile from any grade crossing which it is approaching and at which a sign is required to be maintained as provided in sections 4-203 and 4-207. Such bell shall be rung or such whistle sounded continuously or alternately until the locomotive has passed such crossing.

Rules and regulations of the department of public utilities under this chapter shall provide for the ringing of bells, the sounding of whistles and the giving of other signals by locomotives operated by diesel and other means of propulsion, for the prevention of accidents.

Notwithstanding the foregoing provisions of this section, the department of public utilities may by written order forbid or restrict the sounding of whistles on the locomotives of a railroad corporation at any specified grade crossings of the tracks of such corporation with any public way or service way. The corporation which is subject to such order shall, until the order has been modified or revoked by said department, conform in all respects to the terms thereof.

Section 4-209. A railroad corporation shall at its own expense so guard its tracks at every grade crossing upon a public way or service way, by plank, timber or otherwise, as to provide a safe and easy passage for travellers across the same.

If such crossing is upon a state highway or a metropolitan way, the department of public works or the metropolitan district commission, as the case may be, after notice and a hearing, may order said corporation to relocate, reconstruct or improve the way, or to furnish additional safeguards, as in its opinion are required. If such crossing is upon a public way or service way under the control of a political subdivision of the commonwealth, the county commissioners may exercise like powers relative thereto; provided, that any order of the county commissioners hereunder shall be effective only upon the approval of the department of public utilities, after notice and a hearing.

Section 4-210. If the view of a railroad crossing or highway at grade is obstructed by standing wood, the railroad corporation, or the board or officer having charge of such highway, or ten inhabitants of the municipality wherein such crossing is located, may apply to the department of public utilities for the removal of such standing wood. Said department, after notice and a hearing, shall make such orders as to the removal thereof as the public safety demands, shall prescribe the limits within which such standing wood shall be taken and shall determine the damages sustained. Such damages and the expense incidental thereto may be recovered from the railroad corporation under chapter seventy-nine; provided, that said department may apportion such damages and expense among the parties in accordance with the relative benefit to be derived from such removal.

P R O P O S E D H I G H W A Y C O D E

C H A P T E R 8 1 - O

"U T I L I T Y I N S T A L L A T I O N S W I T H I N W A Y S"

(formerly Chapter 81 - P)

CHAPTER 81-O

UTILITY INSTALLATIONS WITHIN WAYS

ARTICLE 1. PUBLICLY OWNED INSTALLATIONS

Section 1-101. The metropolitan district commission, subject to the provisions of section 1-105, may construct, install, maintain and operate aqueducts, conduits, pipes, sewers, drains, wires and related appurtenances under or over any way in connection with the water and sewerage systems, water supply and sewage disposal authorized by chapter ninety-two; and may excavate any such way for the aforesaid purposes.

Section 1-102. A municipality, subject to the provisions of sections 1-105, 1-106 and 1-107, may construct, install, maintain and operate a system or systems of common sewers and main drains in ways for a part or the whole of its territory as it adjudges necessary for the public convenience or the public health with such connections and other works as may be required for a system or systems of sewerage and drainage, and sewage treatment and disposal.

A municipality may install and maintain, in any way therein where sanitary sewers are constructed, such connecting sewers within the limits of such way as may be necessary to connect any estate which abuts upon the way.

No act shall be done except in the making of surveys, reports and other preliminary investigations, until the plan for said system or systems of sewerage and sewage treatment and disposal has been approved by the department of public health.

The aldermen, selectmen, sewer commissioners, or road commissioners of a municipality may construct, maintain and operate such sewers and drains under or over any public way, and may excavate any such way for the aforesaid purposes.

Any municipal board or officer authorized to lay out county or municipal ways may reserve spaces within the limits thereof for sewers and drains.

Section 1-103. The water board, water commissioners, water superintendent, or other board or officer of a municipality having like powers, subject to the provisions of sections 1-105, 1-106 and 1-107, may construct, install, maintain and operate aqueducts, conduits, pipes, and related appurtenances under or over any way, or along any way within such municipality, in connection with the water supply or water distributing system which such municipality may be authorized by law to establish, and may excavate or raise any such way for the aforesaid purposes.

Section 1-104. A municipality, subject to the provisions of sections 1-105, 1-106 and 1-107, may construct, install, maintain and operate telegraph lines under, over and along public ways.

Section 1-105. The acts authorized in sections 1-101 to 1-104, inclusive, when performed in any public way or service way except by or on behalf of the board or officer having charge of such way, shall be so performed only after the consent of such board or officer has been obtained and then only in accordance with applicable rules and regulations made under section 1-101 of chapter eighty-one-I and in such a manner as not unnecessarily to obstruct such way. Any way excavated hereunder shall be restored, so far as practicable, to its previous condition by the board or officer making such excavation.

Section 1-106. In any municipality having an official map, no municipal utility or improvement shall be constructed in any municipal way or private way therein elsewhere than in a subdivision approved under the subdivision control law, unless such way has been placed on or made part of such map.

The superior court for the county in which the land affected by this section lies in equity, shall have jurisdiction in equity, on petition of a planning board established under section eighty-one-A of chapter forty-one, to enforce this section, and may restrain by injunction violations thereof.

Section 1-107. In any municipality subject to the subdivision control law, no municipal utility or improvement shall be constructed in any municipal way or private way within a subdivision except as provided in section eighty-one-Y of chapter forty-one.

ARTICLE 2. PRIVATELY OWNED INSTALLATIONS

Part 1. Provisions Generally Applicable

Section 2-101. The department of public works may grant easements within the limits of state highways for conduits, pipes, cables, wires, poles and related appurtenances.

Said department may order the removal or relocation of conduits, pipes, cables, wires, poles and related appurtenances within the limits of any public or service way in connection with the abolition of a grade crossing, in accordance with section 3-202 of chapter eighty-one-O.

Section 2-102. The metropolitan district commission may grant locations within the limits of metropolitan ways for conduits, pipes, cables, wires, poles and related appurtenances, and may alter, extend or revoke any such location, in the manner provided in sections forty-three to forty-seven, inclusive of chapter ninety-two.

Section 2-103. Any public authority created by special act may grant locations within the limits of ways under its control for conduits, pipes, cables, wires, poles and related appurtenances, and may alter, extend or revoke any such location, to the extent and in the manner provided in such special act.

Section 2-104. Aldermen and selectmen may, upon terms and conditions prescribed by them, grant locations within the limits of county and municipal ways in their respective municipalities for conduits, pipes, cables, wires, poles and related appurtenances; provided, that the grant of any such location to any person for the operation of pipe lines for transporting petroleum or the products or by-products thereof shall be subject to rules and regulations of the department of public safety; and provided further, that the grant of any such location to a company incorporated for the transmission of intelligence by electricity or by telephone, or for the transmission of television signals, or for the transmission of electricity for lighting, heating or power, shall be subject to the provisions of sections twenty-one and twenty-two of chapter one hundred and sixty-six.

Section 2-105. Any municipal board or officer authorized to lay out county ways or municipal ways may reserve spaces within the limits thereof for conduits, pipes, cables, wires, poles and related appurtenances.

Section 2-106. The board or officer having charge of any way within which a location has been granted under sections 2-101 to 2-105, inclusive, may issue a permit to excavate such way as may be necessary to accomplish the purposes of such location. Any such excavation shall be performed in accordance with applicable rules and regulations made by such board or officer under section 1-101 of chapter eighty-one-I, and with the least possible inconvenience to travelers.

Any person issued a permit hereunder shall be subject to the liabilities imposed in section _____ of chapter eighty-one-D. He shall restore any way excavated by him, to the extent practicable, to its previous condition, and, upon failure to do so within a reasonable time, shall be guilty of a nuisance.

Section 2-107. The board or officer having charge of any way may order the owner of any unused conduits, pipes, cables, wires, poles and related appurtenances to remove the same. If such owner fails to comply with such order within a reasonable time, said board or officer may cause the same to be removed at the expense of such owner.

Part 2. Provisions Applicable to Water, Gas, Electric, Telegraph and Telephone Companies

Section 2-201. Any gas company, and any company subject to chapter one hundred and sixty-six other than a telegraph or telephone company, desiring to install a main or a line for the transmission of gas or electricity which will necessarily pass through public ways of one or more municipalities to connect the proposed termini of such main or line, and whose petition to any board of aldermen or selectmen for the location necessary for such main or line has been refused, or has not been granted within three months after the filing thereof, may apply to the department of public utilities for such location. Said department may grant such location to a gas company in accordance with section seventy A of chapter one hundred and sixty-four, and may grant such location to any such other company in accordance with section twenty-eight of chapter one hundred and sixty-six.

Section 2-202. The construction, installation, maintenance and operation of conduits, pipes, cables, wires, poles and related appurtenances within the limits of a public way by a gas, electric, telegraph or telephone company shall be subject to applicable rules, regulations, orders, ordinances and by-laws made under section seventy-five of chapter one hundred and sixty-four and section twenty-five of chapter one hundred and sixty-six.

Section 2-203. Any line of wires under or over ways, and poles, piers, abutments and other fixtures supporting such wires, shall be subject to the provisions of sections thirty to thirty-four, inclusive, of chapter one hundred and sixty-six.

Section 2-204. Notwithstanding any provision of section 2-106, no person shall construct, install, maintain or operate any conduits, pipes, cables, wires, poles or related appurtenances within the limits of any county or municipal way for the purpose of carrying water, gas or electricity, in competition with a water, gas or electric company in active operation within the same municipality, without the consent of the aldermen or selectmen, granted after notice by publication or otherwise to all parties interested and a public hearing.

Any person aggrieved by the decision of the aldermen or selectmen under this section may, within thirty days after notice of said decision, appeal therefrom to the department of public utilities. Said department shall thereupon give due notice and hear all parties interested, and its decision shall be final.

A municipality which has duly acquired a lighting plant and is authorized to supply gas or electricity in any other municipality shall have all the rights and shall be subject to all the liabilities of a private company supplying gas or electricity in such other municipality under this section.

Section 2-205. The installation, maintenance and use of any wires for the transmission of electricity under or over county or municipal ways by an electric company for the sole purpose of supplying electricity in bulk shall be subject to the provisions of sections ninety and ninety-one of chapter one hundred and sixty-four.

Part 3. Provisions Applicable to Certain Other Companies

Section 2-301. The right to construct, install, maintain and operate pipe lines for conveying petroleum or the products or by-products thereof within the limits of a public way under the control of any state agency shall be granted in accordance with section forty-four B of chapter thirty.

Section 2-302. The aldermen and selectmen of a municipality wherein locations have been granted in county or municipal ways for the construction, installation and maintenance of pipes and conduits to transport the United States mail, merchandise and other articles by means of pneumatic pressure or power, or to distribute artificial cold and refrigerating and cooling materials or to accomplish any of the purposes mentioned in section three of chapter one hundred and fifty-eight, may make rules, regulations, orders, ordinances and by-laws relative thereto in accordance with section forty-three of chapter forty and section fourteen of chapter one hundred and fifty-eight.

C H A P T E R 8 1 - P

R E S T R I C T I O N S O N U S E O F
P R O P E R T Y A B U T T I N G U P O N
O R W I T H I N V I E W O F A P U B L I C
O R P R I V A T E W A Y

(formerly CHAPTER 81-Q)

RESTRICTIONS ON USE OF PROPERTY ABUTTING UPON OR
WITHIN VIEW OF A PUBLIC OR PRIVATE WAY

ARTICLE 1. BUILDING LINES

Section 1-101. The metropolitan district commission may establish a building line on any metropolitan way in the manner provided in chapter eighty-one-C for the establishment or relocation of such ways.

Section 1-102. County commissioners may establish a building line on a county way in the manner provided in chapter eighty-one-C for the establishment or relocation of such way. Said commissioners may in the same manner establish a building line on any municipal way which they are authorized by said chapter to establish or relocate.

Aldermen authorized by city charter to establish and relocate county ways may exercise the foregoing powers in the manner provided in chapter eighty-one-C for the establishment or relocation by them of such ways.

Section 1-103. A municipality which accepts this section may establish a building line on a county way or municipal way therein in the manner provided in chapter eighty-one-C for the establishment or relocation of such ways.

Section 1-104. In a municipality which accepts this section, or has accepted corresponding provisions of earlier laws, the park commissioners may establish a building line in the manner provided in chapter eighty-one-C for the establishment or relocation of municipal ways; provided, that such building line shall not at any point be more than twenty-five feet from the limits of a way under the control of said commissioners or from that part of any other public way on which a park abuts.

Section 1-105. No structures shall be erected or maintained within a building line established under this chapter, except as provided in sections 1-106, 1-107 and 1-108.

In the case of a building line established by park commissioners under section 1-104, the extreme height to

which buildings within such line may be erected shall be seventy feet exclusive of such steeples, towers, domes, cornices, parapets, balustrades, sculptured ornaments, chimneys and roofs as said commissioners may approve.

Section 1-106. Any structure existing at the time of the establishment of a building line under this chapter may be permitted to remain and to be maintained to such extent and under such conditions as may be prescribed in the vote establishing such building line.

Section 1-107. A fire escape described in part C of section thirty-seven of chapter one hundred and forty-four, or in section forty of chapter one hundred and forty-five, may, except as otherwise provided in said sections, project into a public way for a distance of not more than four feet beyond a building line established under this chapter.

Section 1-108. The metropolitan district commission may grant permits for the projection of eaves, cornices or ornaments of buildings beyond a building line established by said commission under this chapter, upon the land of a private owner, in accordance with section ninety-five of chapter ninety-two; provided, that no grant hereunder shall be made for any projection of more than three feet, nor contrary to the provisions of section 2-301 of chapter eighty-one-I.

Section 1-109. Steps, windows, porticos, other usual projections appurtenant to the front wall of a building, embankments, walls, fences and gates may project beyond a building line established by a county or municipality under this chapter, to the extent prescribed in the vote establishing such building line.

Section 1-110. Any person injured in his property by the establishment of a building line under this chapter may recover the damages so caused under chapter seventy-nine.

ARTICLE 2. HISTORIC DISTRICTS

Section 2-101. All buildings or structures, including stone walls, fences, steps; paving, signs, lights or other appurtenant fixtures, within a historic district established under section three of chapter forty-C and open to public view from a public way, in whole or in part, shall be subject to the provisions of said chapter forty-C.

ARTICLE 3. ADVERTISING DEVICES

Section 3-101. The outdoor advertising board may make rules and regulations for the proper control and restriction of billboards, signs and other advertising devices, except as provided in section 3-106, on property abutting upon or within public view of any public way. Such rules and regulations may require that said billboards, signs or other devices be located in business, commercial, industrial, marketing or mercantile areas, or on unrestricted commercial arteries and adjacent to commercial enterprises; may prescribe standards of size, set-back and clearance, considering the public interest; may require said billboards, signs or other devices to be licensed by said board by the issuance of permits in accordance therewith and with this section; and may prescribe permit fees to be fixed with regard to the cost of administering this section, and said fees need not be uniform throughout the commonwealth. No permit, whether permanent or temporary, for a billboard, sign or other advertising device shall be issued unless written notice of the application therefor stating the proposed location shall have been given at least thirty days earlier to the municipality in which the proposed billboard, sign or other advertising device is to be located. Said board shall delegate to the executive director authority to issue licenses or permits, subject to the provisions of section 3-102, where no objection has been received to the pending application. Except as hereinafter provided, before establishing or amending rules and regulations under this section, said board shall hold duly advertised public hearings in Boston and in such other municipalities as it deems necessary or expedient. Municipalities may further regulate and restrict said billboards, signs or other devices within their respective limits by ordinance or by-law, not inconsistent with sections 3-101 to 3-107, inclusive or with said rules and regulations.

Section 3-102. Whenever, within thirty days after notification to a municipality under section 3-101, the outdoor advertising board shall have received written objection to an application for a permit, such permit shall issue only after consideration by said board of such objection, and whenever, within thirty days after notification to said municipality, said board shall have received written notice of intention to appear in opposition to the application, said board shall issue such permit only after a public hearing on due notice to the applicant and to said municipality. Any applicant for a permit, or any municipality wherein a permit is to be issued, aggrieved by a decision of the executive director with respect to the issuance or revocation of a license or permit for the erection or maintenance of a billboard, sign or other advertising device, may, within fifteen days thereafter, appeal from such decision to said board, which may, after a public hearing held on due notice, order such decision to be affirmed, modified or annulled. Said board may in its discretion order a public hearing with respect to any decision of the executive director within fifteen days after such decision, and may after such hearing order such decision to be affirmed, modified or annulled. The findings of said board on matters heard before it shall be final except with respect to matters of law.

Section 3-103. No person shall post, erect, display or maintain on property abutting upon or within public view of any public way any billboard or other advertising device, whether or not erected before August twenty-fifth, nineteen hundred and twenty, which advertises or calls attention to any business, article, substance or any other thing, unless such billboard or device conforms to the rules and regulations and ordinances or by-laws established under section 3-101; provided, that this section shall not apply to signs or other devices erected and maintained in conformity with law and which advertise or indicate either the person occupying the premises in question or the business transacted thereon, or advertise the property itself or any part thereof as for sale or to let and which contain no other advertising matter or which are maintained on land owned by a person, engaged in the outdoor advertising business if owned by the same person on January first, nineteen hundred and twenty-five, and if billboards or other devices were maintained thereon prior to August twenty-fifth, nineteen hundred and twenty, and have been maintained thereon from that time until January first, nineteen hundred and forty-five.

Section 3-104. Any billboard, sign or other device, erected after August twentieth, nineteen hundred and twenty, without the authorization or permit of the outdoor advertising division, or of the outdoor advertising authority, or of the department of public works prior to the establishment of the authority, in cases where such authorization or permit is required, or maintained after said date in violation of any rule or regulation of the outdoor advertising board, shall be deemed a nuisance. Said board shall have the same power to abate and remove any such nuisance as is given the board of health of a town under sections one hundred and twenty-three to one hundred and twenty-five, inclusive, of chapter one hundred and eleven, and the provisions of said sections shall, so far as applicable, apply in the case of a nuisance as herein defined. The remedy herein provided shall be in addition to any other remedy provided by law.

Section 3-105. The supreme judicial and superior courts shall have jurisdiction in equity upon petition of the attorney general, of any municipality or any officer thereof, or of any interested party, to restrain the erection or maintenance of any billboard, sign or other device erected or maintained in violation of any rule or regulation adopted by the outdoor advertising board under section 3-101, and to order the removal or abatement of such billboard, sign or device as a nuisance.

Section 3-106. Sections 3-101 to 3-105, inclusive, and section 3-107 shall not apply to signs or other devices on or in the rolling stock of any common carrier, nor shall said sections apply to signs or other devices on or in stations, subways or structures of or used by any common carrier unless such signs or devices are displayed within view of a public way.

Section 3-107. Whoever violates any rule, regulation, ordinance or by-law made under section 3-101 shall be punished by a fine of not more than one hundred dollars, and whoever after conviction of such violation unlawfully maintains such a billboard, sign or other device for twenty days thereafter shall be punished by a fine of not more than five hundred dollars.

Section 3-108. Signs stating or relating to the price of motor fuel, and signs designed or calculated to cause the public to believe that they state or relate to the price of motor fuel, which are within view of any public highway, shall be subject to the provisions of section two hundred and ninety-five C of chapter ninety-four.

ARTICLE 4. HAZARDS AND NUISANCES

Section 4-101. No person shall dispose of garbage, refuse or any other substance within sixty feet of a public highway without the consent of the board or officer having charge of such way, in such a manner as to commit a nuisance thereby.

Section 4-102. Every owner, lessee, tenant or occupant of land abutting upon a public way or a private way dedicated to public use, or of any rights or interests in such land, who cuts or permits the cutting of brush, wood or timber on such land shall dispose of the slash caused by such cutting in such a manner that the same will not remain on the ground within forty feet of any such way; provided, that if any such person trims or cuts brush, wood or timber which has grown up on such land since a previous cutting thereof, he shall, upon the request of the forester or municipal officer having like duties, and within a time limit set by him, dispose of the slash of second or subsequent cuttings if the same, in his opinion constitutes a menace to adjoining property.

Section 4-103. Whoever violates any provision of sections 4-101 and 4-102 shall be punished by a fine of not more than one hundred dollars.

Section 4-104. Municipalities may make orders, ordinances and by-laws to require owners of buildings near the limits of public ways to erect barriers or take other suitable measures to prevent the fall of snow and ice therefrom upon persons traveling on such ways, and to protect such persons from other dangers incident to the maintenance, occupation or use of such buildings. Such orders, ordinances and by-laws may prescribe fines not more than fifty dollars for violations thereof.

Section 4-105. If the owner of land abutting upon a public way dedicates to the public or permits it to use a portion of his land lying between said way and a building fronting on the same, he shall keep such portion in such condition as, in the opinion of the aldermen or selectmen, the safety and convenience of the public requires. If such owner, after reasonable notice given by the aldermen, mayor or selectmen, neglects or refuses to make the repairs or improvements so required, or to close his land to public use by a substantial railing or guard, the aldermen or selectmen may put said land into such condition and assess the expense thereof upon the owner. Assessments so made may be collected in the manner provided for the collection of betterment assessments.

Section 4-106. Any excavation on land abutting upon a way shall be subject to orders, ordinances and by-laws made under clause nineteen of section twenty-one of chapter forty.

If an excavation on land abutting upon a public way is a hazard to travelers on such way who are in the exercise of due care, the person in control of such land shall be liable in tort to any such traveler who, by reason of a want of a sufficient railing or barrier in or upon such excavation or between such excavation and such way, sustains bodily injury or property damage.

Section 4-107. No person shall erect or maintain a barbed wire fence the lowest strand of which is less than six feet above the ground along a public sidewalk.

Section 4-108. No person other than a police officer in the performance of his duty shall discharge any firearm, air rifle or BB gun within one hundred and fifty feet of any public way or any private way dedicated or open to public use.

Section 4-109. Whoever violates any provision of sections 4-107 and 4-108 shall be punished by a fine of not more than fifty dollars.

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